

House Bill 1545
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Sections 1.04(5), (7), (13), (14), (15), (17), (18), and (27), Alcoholic Beverage Code, are amended to read as follows:

(5) "Liquor" means any alcoholic beverage, ~~other than a malt beverage,~~ containing alcohol in excess of five ~~four~~ percent by volume ~~weight~~, unless otherwise indicated. Proof that an alcoholic beverage is alcohol, spirits of wine, whiskey, liquor, wine, brandy, gin, rum, ~~[ale, malt liquor,]~~ tequila, mescal, habanero, or barreteago, is prima facie evidence that it is liquor.

(7) "Wine and vinous liquor" means the product obtained from the alcoholic fermentation of juice of sound ripe grapes, fruits, berries, or honey, and includes wine coolers and saké.

(13) "Mixed beverage" means one or more servings of a beverage composed in whole or part of an alcoholic beverage in a sealed or unsealed container of any legal size for consumption on the premises where served or sold by the holder of a mixed beverage permit, the holder of certain nonprofit entity temporary event permits ~~[a daily temporary mixed beverage permit, the holder of a caterer's permit, the holder of a mixed beverage late hours permit]~~, the holder of a private club registration permit, or the holder of certain retailer late hours certificates ~~[a private club late hours permit]~~.

(14) "Barrel" means, as a standard of measure, a quantity of malt beverages ~~[beer]~~ equal to 31 standard gallons.

(15) "Malt beverage" ~~["Beer"]~~ means a fermented ~~[malt]~~ beverage of any name or description containing one-half of one percent or more of alcohol by volume, brewed or produced from malt, in whole or in part, or from any malt substitute ~~[and not more than four percent of alcohol by weight]~~.

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(17) "~~Brewer~~ [~~Manufacturer~~]" means a person engaged in the [~~manufacture or~~] brewing of malt beverages [~~beer~~], whether located inside or outside the state.

(18) "Original package," as applied to malt beverages [~~beer~~], means a container holding malt beverages [~~beer~~] in bulk, or any box, crate, carton, or other device used in packing malt beverages [~~beer~~] that is contained in bottles or other containers.

(27) "Contract brewing arrangement" means an arrangement in which two breweries, each of which has a separate facility, contract for one brewery to brew [~~manufacture~~] malt beverages on behalf of the other brewery due to the limited capacity or other reasonable business necessity of one party to the arrangement.

SECTION 2. Effective December 31, 2020, Section 1.04(9), Alcoholic Beverage Code, is amended to read as follows:

(9) "Applicant" means a person who submits or files an original or renewal application with the [~~county judge,~~] commission[~~, or administrator~~] for a license or permit.

SECTION 3. Chapter 1, Alcoholic Beverage Code, is amended by adding Section 1.08 to read as follows:

Sec. 1.08. PREVENTION OF HUMAN TRAFFICKING. It is the intent of the legislature to prevent human trafficking at all permitted and licensed premises, and all provisions of this code shall be liberally construed to carry out this intent, and it shall be a duty and priority of the commission to adhere to a zero tolerance policy of preventing human trafficking and related practices.

SENATE VERSION (IE)

SECTION 2. Same as House version.

SECTION 3. Chapter 1, Alcoholic Beverage Code, is amended by adding Sections 1.08 and 1.09 to read as follows:

Sec. 1.08. PREVENTION OF HUMAN TRAFFICKING. It is the intent of the legislature to prevent human trafficking at all permitted and licensed premises, and all provisions of this code shall be liberally construed to carry out this intent, and it shall be a duty and priority of the commission to adhere to

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a zero tolerance policy of preventing human trafficking and related practices.

Sec. 1.09. REFERENCES TO CERTAIN TERMS. A reference in this code to:

(1) "Ale," "beer," or "malt liquor" means a malt beverage.

(2) "Brewer's permit" or "manufacturer's license" means a brewer's license.

(3) "Nonresident brewer's permit" or "nonresident manufacturer's license" means a nonresident brewer's license.

(4) "Wine and beer retailer's off-premise permit" means a wine and malt beverage retailer's off-premise permit.

(5) "Wine and beer retailer's permit" means a wine and malt beverage retailer's permit.

SECTION 4. Effective September 1, 2019, Section 5.01(b), Alcoholic Beverage Code, is amended to read as follows:

(b) The Texas Alcoholic Beverage Commission is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished and Subchapter A, Chapter 5, expires September 1, 2031 [~~2019~~].

SECTION 4. Same as House version.

SECTION 5. Effective September 1, 2019, Section 5.02(a), Alcoholic Beverage Code, is amended to read as follows:

(a) The commission is composed of five [~~three~~] members, who are appointed by the governor with the advice and consent of the senate.

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SECTION 6. Effective September 1, 2019, Section 5.022, Alcoholic Beverage Code, is amended by amending Subsection (b) and adding Subsection (d) to read as follows:

(b) The training program must provide the person with information regarding:

(1) the law governing [legislation that created the] commission operations;

(2) ~~[and] the [commission's]~~ programs, functions, rules, and budget of the commission;

(3) the scope of and limitations on the rulemaking authority of the commission;

(4) ~~[(2)]~~ the results of the most recent formal audit of the commission;

(5) ~~[(3)]~~ the requirements of:

(A) laws relating to open meetings, public information, administrative procedure, and disclosing conflicts of interest; and

(B) other laws applicable to members of a state policymaking body in performing their duties; and

(6) ~~[(4)]~~ any applicable ethics policies adopted by the commission or the Texas Ethics Commission.

(d) The administrator of the commission shall create a training manual that includes the information required by Subsection (b). The administrator shall distribute a copy of the training manual annually to each member of the commission. Each member of the commission shall sign and submit to the administrator a statement acknowledging that the member received and has reviewed the training manual.

SECTION 7. Effective September 1, 2019, Section 5.03, Alcoholic Beverage Code, is amended to read as follows:

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SECTION 7. Same as House version.

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Sec. 5.03. TERMS OF OFFICE. The members of the commission hold office for staggered terms of six years, with the term of one or two members ~~member~~ expiring every two years. Each member holds office until the member's ~~his~~ successor is appointed and has qualified. The governor may appoint a [A] member to serve consecutive terms ~~may be appointed to succeed himself~~.

SECTION 8. Effective September 1, 2019, Section 5.05, Alcoholic Beverage Code, is amended by amending Subsections (a), (a-1), and (a-2) and adding Subsection (a-3) to read as follows:

(a) A ~~No~~ person may not be appointed to or serve on the commission, or hold an office under the commission, or be employed by the commission, if the person is employed by or ~~who~~:

~~(1) has a~~ any financial interest ~~connection with a person engaged~~ in an alcoholic beverage business. For purposes of this subsection, a person has a financial interest;

~~(2) holds stocks or bonds~~ in an alcoholic beverage business if:

(1) the person owns or controls, directly or indirectly, an ownership ~~or~~

~~(3) has a pecuniary~~ interest of:

(A) at least five percent in a single ~~an~~ alcoholic beverage business, including the right to share in profits, proceeds, or capital gains; or

(B) at least five percent cumulative interest, including the right to share in profits, proceeds, or capital gains, in multiple alcoholic beverage businesses; or

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(2) the person's spouse or child has an ownership interest described by Subdivision (1).

(a-1) A financial interest prohibited by Subsection (a) does not include an ownership interest under a retirement plan, a blind trust, or insurance coverage, or an ownership interest of less than five percent in a corporation.

(a-2) Notwithstanding any other law, a child of a commission employee may be employed by the holder of a license or permit issued under this code.

(a-3) [(a-2)] The commission shall establish an agency policy requiring employees to disclose information regarding their children's employment by a holder of a license or permit issued under this code.

SECTION 9. Effective September 1, 2019, Subchapter A, Chapter 5, Alcoholic Beverage Code, is amended by adding Section 5.21 to read as follows:

Sec. 5.21. ADVISORY COMMITTEES. (a) The commission, by rule, may establish advisory committees it considers necessary to accomplish the purposes of this code.

(b) Chapter 2110, Government Code, applies to an advisory committee created by the commission.

SECTION 10. Effective September 1, 2019, the heading to Section 5.361, Alcoholic Beverage Code, is amended to read as follows:

Sec. 5.361. ENFORCEMENT; INSPECTIONS.

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SECTION 10. Same as House version.

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SECTION 11. Effective September 1, 2019, Section 5.361, Alcoholic Beverage Code, is amended by adding Subsections (a-1) and (a-2) to read as follows:

(a-1) As part of the commission's enforcement activities under this section, the commission by rule shall develop a plan for inspecting permittees and licensees using a risk-based approach that prioritizes public safety. The inspection plan may provide for a virtual inspection of the permittee or licensee that may include a review of the permittee's or licensee's records or it may also require a physical inspection of the permittee's or licensee's premises.

(a-2) The inspection plan must:

(1) establish a timeline for the inspection of each permittee and licensee that ensures that high-risk permittees and licensees are prioritized; and

(2) require the commission to physically inspect the premises of each permittee and licensee within a reasonable time as set by rule.

SECTION 12. Effective September 1, 2019, Subchapter B, Chapter 5, Alcoholic Beverage Code, is amended by adding Sections 5.363 and 5.364 to read as follows:

Sec. 5.363. DISCIPLINARY AUTHORITY OF ADMINISTRATOR AND COMMISSION. (a) The commission by rule may delegate to the administrator the authority to take disciplinary and enforcement actions against a person subject to the commission's regulation under this code, including the authority to enter into an agreed settlement of a disciplinary action. In the rules adopted under this subsection, the commission shall specify a

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SECTION 11. Same as House version.

SECTION 12. Same as House version.

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threshold for the types of disciplinary and enforcement actions that are delegated to the administrator.

(b) The commission shall make the final decision in any disciplinary action in a contested case that has had an administrative hearing.

Sec. 5.364. RECEIPT AND USE OF MARKET DATA. (a) The commission may receive market data that is voluntarily provided by a licensee or permittee under this code.

(b) The commission may only use the market data received under Subsection (a) for the commission's law enforcement purposes. The commission may not use the data to create a database of information containing individually identifying information.

SECTION 13. Section 5.40, Alcoholic Beverage Code, is amended to read as follows:

Sec. 5.40. REGULATION OF MALT BEVERAGE ~~BEER~~ CONTAINER DEPOSITS. If the commission finds it necessary to effectuate the purposes of this code, it may adopt rules to provide a schedule of deposits required to be obtained on malt beverage ~~beer~~ containers delivered by a licensee.

SECTION 14. Effective December 31, 2020, Section 5.43, Alcoholic Beverage Code, is amended to read as follows:

Sec. 5.43. WHO MAY HOLD HEARING; RULES OF EVIDENCE. (a) Except ~~[as provided by Subsection (b)]~~ for a hearing ~~[held under Section 61.32 of this code, a hearing]~~ on the adoption of commission rules[;] or a hearing on an employment matter, the commission designates the State

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SECTION 14. Same as House version.

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Office of Administrative Hearings to conduct and make a record of any hearing authorized by this code. If the commission or administrator declares a hearing to be an emergency, the State Office of Administrative Hearings shall assign an administrative law judge or may contract with a qualified individual within five days and set a hearing as soon as possible.

(b) The commission ~~[or administrator]~~ may render a decision on the basis of the record or the proposal for decision if one is required under the administrative procedure law, Chapter 2001, Government Code, as if the ~~[administrator or entire]~~ commission had conducted the hearing. The commission may prescribe its rules of procedure for cases not heard by the State Office of Administrative Hearings.

SECTION 15. Section 5.50, Alcoholic Beverage Code, is amended to read as follows:

Sec. 5.50. ESTABLISHMENT OF CERTAIN FEES. (a) The commission by rule may establish reasonable fees for tasks and services performed by the commission in carrying out the provisions of this code, including fees for ~~for~~ ~~incidental to~~ the issuance of certificates, licenses, and permits under Title 3 ~~[of this code]~~.

(b) The commission may not increase or decrease a fee set by this code, but if a statute is enacted creating a certificate, permit, or license and there is no fee established, the commission by rule may set a fee. The commission by rule shall assess a fee ~~[surcharges]~~ on all applicants for an original or renewal certificate, permit, or license issued by

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SECTION 15. Section 5.50, Alcoholic Beverage Code, is amended to read as follows:

Sec. 5.50. ESTABLISHMENT OF CERTAIN FEES. (a) The commission by rule may establish reasonable fees for tasks and services performed by the commission in carrying out the provisions of this code, including fees for ~~for~~ ~~incidental to~~ the issuance of certificates, licenses, and permits under Title 3 ~~[of this code]~~.

(b) The commission may not increase or decrease a fee set by this code, but if a statute is enacted creating a certificate, permit, or license and there is no fee established, the commission by rule may set a fee. The commission by rule shall assess a fee ~~[surcharges]~~ on all applicants for an original or renewal certificate, permit, or license issued by

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the commission [~~in addition to any fee set by this code~~] and collect the fee ~~[surcharges]~~ at the time of application.

(b-1) The commission shall develop a process for setting fees that ensures the amount of the fees for an original or renewal certificate, permit, or license is sufficient to cover the costs incurred by the commission in administering this code. The process must:

(1) allow the commission to:

(A) consider relevant information including the type of business being regulated and the level of regulatory activities associated with each certificate, permit, or license; and

(B) set different fees for the same original or renewal certificate, permit, or license if the commission determines the level of regulatory activities associated with a certificate, permit, or license varies; and

(2) ensure that [~~In assessing a surcharge,~~] the commission does ~~[may]~~ not overly penalize any segment of the alcoholic beverage industry or impose an undue hardship on small businesses.

(b-2) The commission shall periodically review the amount of each fee collected under this code and adjust the amount of each fee to ensure that the commission's regulatory costs are fairly allocated among all certificate, permit, and license holders.

(c) Insofar as they relate to the levying and collection of a local fee, Sections 11.38 and 61.36 [~~of this code~~] do not apply to fees set by rule of the commission.

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the commission [~~in addition to any fee set by this code~~] and collect the fee ~~[surcharges]~~ at the time of application.

(b-1) The commission shall develop a process for setting fees that ensures the amount of the fees for an original or renewal certificate, permit, or license is sufficient to cover the costs incurred by the commission in administering this code. The process must:

(1) allow the commission to:

(A) consider relevant information including the type of business being regulated and the level of regulatory activities associated with each certificate, permit, or license; and

(B) set different fees for the same original or renewal certificate, permit, or license if the commission determines the level of regulatory activities associated with a certificate, permit, or license varies; and

(2) ensure that [~~In assessing a surcharge,~~] the commission does ~~[may]~~ not overly penalize any segment of the alcoholic beverage industry or impose an undue hardship on small businesses.

(b-2) The commission shall periodically review the amount of each fee collected under this code and adjust the amount of each fee to ensure that the commission's regulatory costs are fairly allocated among all certificate, permit, and license holders.

(c) The commission shall post on the commission's Internet website the maximum amount of the fee for each permit and license that a local governmental entity may levy and collect under [~~Insofar as they relate to the levying and collection of a local fee,~~] Sections 11.38 and 61.36 [~~of this code do not apply to fees set by rule of the commission~~].

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(d) Revenues [~~and surcharges~~] from fees collected by the commission under this section shall be deposited in the general revenue fund.

SECTION 16. Section 5.51, Alcoholic Beverage Code, is amended to read as follows:

Sec. 5.51. BOOKKEEPING RECORDS. A permittee who holds a permit issued under Chapter [Chapters] 28, 30, or 32 [~~through 33 of this code~~] may elect to keep all records required under this code on a machine bookkeeping system. A permittee who desires to use such a system must submit a written application for commission approval of the system before implementing the system. The commission may authorize a permittee to centralize the permittee's records.

SECTION 17. Effective September 1, 2019, Section 5.56(b), Alcoholic Beverage Code, is amended to read as follows:

(b) The commission in accordance with this subsection may recover the amount transferred under Subsection (a) by imposing a surcharge on licenses and permits [~~other than an agent's permit or an agent's beer license,~~] issued or renewed by the commission each fiscal year. The surcharge shall be an amount equal to the amount transferred under Subsection (a) divided by the number of licenses and permits the commission anticipates issuing during that year, rounded down to the next lowest whole dollar.

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(d) Revenues [~~and surcharges~~] from fees collected by the commission under this section shall be deposited in the general revenue fund.

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SECTION 17. Same as House version.

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SECTION 18. Section 5.57(c), Alcoholic Beverage Code, is amended to read as follows:

(c) The commission shall make a reasonable attempt to meet with alcoholic beverage industry representatives from:

- (1) the manufacturing, distribution, and retail tiers of the industry; and
- (2) the liquor, malt beverage [~~beer~~], and wine segments of the industry.

SECTION 19. Effective September 1, 2019, Subchapter B, Chapter 5, Alcoholic Beverage Code, is amended by adding Section 5.581 to read as follows:

Sec. 5.581. DISCLOSURE OF PERSONNEL RECORDS OF COMMISSIONED PEACE OFFICERS. (a) In this section, "personnel record" includes any letter, memorandum, or document maintained by the commission that relates to a commissioned peace officer of the commission, including background investigations, employment applications, employment contracts, service and training records, requests for off-duty employment, birth records, reference letters, letters of recommendation, performance evaluations and counseling records, results of physical tests, polygraph questionnaires and results, proficiency tests, the results of health examinations and other medical records, workers' compensation files, the results of psychological examinations, leave requests, requests for transfers of shift or duty assignments, commendations, promotional processes, demotions, complaints and investigations, employment-related grievances, and school transcripts.

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SECTION 18. Same as House version.

SECTION 19. Same as House version.

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(b) Except as provided by Subsection (c), the personnel records of a commissioned peace officer of the commission may not be disclosed under Chapter 552, Government Code, or otherwise made available to the public while there is a pending internal investigation for alleged employee misconduct.

(c) The commission may release any personnel record of a commissioned peace officer:

(1) pursuant to a subpoena or court order, including a discovery order;

(2) for use by the commission in an administrative hearing;
or

(3) with the written authorization of the officer who is the subject of the record, as long as release of the information does not interfere with the investigation of alleged misconduct by the commissioned peace officer.

(d) A release of information under Subsection (c) does not waive the right to assert in the future that the information is excepted from required disclosure under this section or other law.

SECTION 20. Sections 6.03(g) and (k), Alcoholic Beverage Code, are amended to read as follows:

(g) To accommodate the interests of the consuming public, the expansion of popular nationwide businesses, and the increasing state interest in tourism, and at the same time to guard against the threats of organized crime, unfair competition, and decreased opportunities for small businesses, the legislature finds that there is no longer need for the three-year residency requirements with regard to those segments of the industry that sell alcoholic beverages

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to the ultimate consumer only. The legislature finds that it is desirable to retain a one-year residency requirement for businesses that sell to the consumer packaged liquor and fortified wine capable of being used to supply legal or illegal bars and clubs. The legislature also finds it reasonable, desirable, and in the best interests of the state to provide a one-year residency requirement for businesses engaged in the wholesale distribution of ~~[beer,]~~ malt beverages ~~[liquor,]~~ or wine or in the manufacture and distribution of distilled spirits and fortified wines at both the wholesale and the retail levels where those beverages, in unopened containers, are sold to mixed beverage permittees and private club registration permittees as well as to the general public. Adequate protection is deemed to be provided by controlling those sources of supply for distilled spirits and fortified wines.

(k) A requirement under this code that 51 percent or more of the stock of a corporation be owned by a person or persons who were citizens of this state for a one-year period preceding the date of the filing of an application for a license or permit does not apply to a corporation organized under the laws of this state that applies for a license or permit under Chapters 25, 26, 28, 30, 32, 48, 50, 69, 71, and [25-34, Chapter 44, Chapters 48-51, Chapters 69-72, or Chapter] 74 ~~[of this code]~~ if:

(1) all of the officers and a majority of directors of the applicant corporation have resided within the state for a one-year period preceding the date of the application and each officer or director possesses the qualifications required of other applicants for permits and licenses;

(2) the applicant corporation and the applicant's shareholders have no direct or indirect ownership or other

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prohibited relationship with others engaged in the alcoholic beverage industry at different levels as provided by Chapter 102 ~~[of this code]~~ and other provisions of this code;

(3) the applicant corporation is not precluded by law, rule, charter, or corporate bylaw from disclosing the applicant's shareholders to the commission; and

(4) the applicant corporation maintains its books and records relating to its alcoholic beverage operations in the state at its registered office or at a location in the state approved in writing by the commission.

~~No equivalent provision.~~

SECTION 21. Effective December 31, 2020, Section 11.015, Alcoholic Beverage Code, is amended to read as follows:

Sec. 11.015. HEARING LOCATION. Notwithstanding any other provision of this code, ~~[except for a hearing required to be conducted by a county judge,]~~ a hearing related to the issuance, renewal, cancellation, or suspension of a permit under this subtitle may be conducted:

- (1) in the county in which the premises is located;
- (2) at the nearest permanent hearing office of the State Office of Administrative Hearings; or
- (3) at any location agreed to by the parties.

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SECTION 21. Effective September 1, 2019, Section 11.01(c), Alcoholic Beverage Code, is amended to read as follows: [Deleted by FA2]

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SECTION 22. Sections 11.09(a) and (b), Alcoholic Beverage Code, are amended to read as follows:

- (a) A permit issued under this code expires on the second anniversary of the date it is issued, except as provided by Subsections (d) and (e) or another provision of this code. ~~[Notwithstanding Section 5.50(b), the commission shall double the amount of fees and surcharges otherwise applicable under this code for a permit with a two-year term.]~~
- (b) A secondary permit which requires the holder of the permit to first obtain another permit, including a retailer late hours certificate ~~[permit or temporary permit]~~, expires on the same date the basic or primary permit expires. The commission may not prorate or refund any part of the fee for the secondary permit if the application of this section results in the expiration of the permit in less than two years.

SECTION 23. Section 11.13(a), Alcoholic Beverage Code, is amended to read as follows:

- (a) This section applies only to a license or permit held in connection with an establishment located in a county with a population of 1.4 million or more for which a license or permit has been issued under Chapter 25 or 69 for the on-premises consumption of malt beverages ~~[beer]~~ exclusively or malt beverages ~~[beer]~~ and wine exclusively, other than a license or permit for an establishment holding a food and beverage certificate whose primary business being operated on the premises is food service.

SECTION 24. Effective September 1, 2019, Section 11.31, Alcoholic Beverage Code, is amended to read as follows:

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Sec. 11.31. APPLICATION FOR PERMIT. All permits shall be applied for and obtained from the commission. [~~This section does not apply to wine and beer retailer's permits, except those for railway cars or excursion boats, or to wine and beer retailer's off-premise permits.~~]

SECTION 25. Section 11.321(b), Alcoholic Beverage Code, is amended to read as follows:

(b) In addition to any other applicable civil or criminal penalty, the commission may impose an administrative penalty not to exceed \$4,000 on a licensee or permittee who makes a false or misleading statement in an original or renewal application, either in the formal application itself or in any written instrument relating to the application submitted to the commission or its officers or employees, in connection with an establishment that is licensed or permitted under Chapter 25 or 69 for the on-premises consumption of malt beverages [~~beer~~] exclusively or malt beverages [~~beer~~] and wine exclusively, other than an establishment holding a food and beverage certificate whose primary business being operated on the premises is food service.

SECTION 26. Section 11.34, Alcoholic Beverage Code, is amended to read as follows:

Sec. 11.34. CONSOLIDATED APPLICATION. (a) An applicant for a wholesaler's, class B wholesaler's, distiller's and rectifier's, [~~brewer's,~~] or winery permit may consolidate in a single application the [~~his~~] application for that permit and an [~~his~~] application for[=

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~~[(1) private storage;~~
~~[(2) storage in a public bonded warehouse;~~
~~[(3) a private carrier's permit; and~~
[(4)] any other permit the applicant ~~[he]~~ is qualified to receive.

(b) An applicant who files a consolidated application must pay the fee required by commission rule ~~[prescribed in this code]~~ for each permit included in the application.

SECTION 27. Effective September 1, 2019, Sections 11.37(a) and (b), Alcoholic Beverage Code, are amended to read as follows:

(a) The county clerk of the county in which an application for a permit is made shall certify whether the location or address given in the application is in a wet area and whether the sale of alcoholic beverages for which the permit is sought is prohibited by any valid order of the commissioners court. The county clerk shall issue the certification not later than the 30th day after the date the county clerk receives the application for certification.

(b) The city secretary or clerk of the city in which an application for a permit is made shall certify whether the location or address given in the application is in a wet area and whether the sale of alcoholic beverages for which the permit is sought is prohibited by charter or ordinance. The city secretary or clerk of the city shall issue the certification not later than the 30th day after the date the city secretary or clerk of the city receives the application for certification.

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SECTION 28. Effective September 1, 2019, Sections 11.37(a), (b), and (d), Alcoholic Beverage Code, are amended to read as follows:

(a) Not later than the 30th day after the date a prospective applicant for a permit issued by the commission requests certification, the ~~[The]~~ county clerk of the county in which the request ~~[an application for a permit]~~ is made shall certify whether the location or address given in the request ~~[application]~~ is in a wet area and whether the sale of alcoholic beverages for which the permit is sought is prohibited by any valid order of the commissioners court.

(b) Not later than the 30th day after the date a prospective applicant for a permit issued by the commission requests certification, the ~~[The]~~ city secretary or clerk of the city in which the request ~~[an application for a permit]~~ is made shall certify whether the location or address given in the request ~~[application]~~ is in a wet area and whether the sale of alcoholic beverages for which the permit is sought is prohibited by charter or ordinance.

(d) Notwithstanding any other provision of this code, if the county clerk, city secretary, or city clerk certifies that the location or address given in the request ~~[application]~~ is not

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in a wet area or refuses to issue the certification required by this section, the prospective applicant is entitled to a hearing before the county judge to contest the certification or refusal to certify. The prospective applicant must submit a written request to the county judge for a hearing under this subsection. The county judge shall conduct a hearing required by this subsection not later than the 30th day after the date the county judge receives the written request.

SECTION 28. Section 11.38(d), Alcoholic Beverage Code, is amended to read as follows:

SECTION 29. Sections 11.38(a) and (d), Alcoholic Beverage Code, are amended to read as follows:

(a) The governing body of a city or town may levy and collect a fee ~~[not to exceed one-half the state fee]~~ for each permit issued for premises located within the city or town. The commissioners court of a county may levy and collect a fee ~~[equal to one-half of the state fee]~~ for each permit issued for premises located within the county. The fees authorized by this subsection may not exceed one-half the statutory fee provided in this code as of August 31, 2021, for the permit issued. Those authorities may not levy or collect any other fee or tax from the permittee except general ad valorem taxes, the hotel occupancy tax levied under Chapter 351, Tax Code, and the local sales and use tax levied under Chapter 321, Tax Code.

(d) The following are exempt from the fee authorized in this section:

(d) The following are exempt from the fee authorized in this section:

(1) ~~[agent's, airline beverage,]~~ passenger transportation ~~[train beverage, passenger bus beverage, industrial], carrier~~ ~~[carrier's, private carrier's]~~, private club registration, and local cartage~~[-, storage, and temporary wine and beer retailer's]~~ permits;

(1) ~~[agent's, airline beverage,]~~ passenger transportation ~~[train beverage, passenger bus beverage, industrial], carrier~~ ~~[carrier's, private carrier's]~~, private club registration, and local cartage~~[-, storage, and temporary wine and beer retailer's]~~ permits;

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~~[(2) a wine and beer retailer's permit issued for a dining, buffet, or club car;] and~~

(2) ~~[(3)]~~ a mixed beverage permit during the three-year period following the issuance of the permit.

SECTION 29. Effective December 31, 2020, Section 11.38(e), Alcoholic Beverage Code, is amended to read as follows:

(e) The commission or administrator may cancel or the commission may deny a permit for the retail sale or service of alcoholic beverages, including a permit held by the holder of a food and beverage certificate, if it finds that the permit holder or applicant has not paid delinquent ad valorem taxes due on that permitted premises or due from a business operated on that premises to any taxing authority in the county of the premises. For purposes of this subsection, a permit holder or applicant is presumed delinquent in the payment of taxes due if the permit holder or applicant:

- (1) is placed on a delinquent tax roll prepared under Section 33.03, Tax Code;
- (2) has received a notice of delinquency under Section 33.04, Tax Code; and
- (3) has not made a payment required under Section 42.08, Tax Code.

SECTION 30. Sections 11.39(a) and (d), Alcoholic Beverage Code, are amended to read as follows:

(a) Every applicant for a ~~[brewer's,]~~ distiller's and rectifier's, mixed beverage, private club registration, winery, wholesaler's, class B wholesaler's, ~~[wine-bottler's,]~~ or

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~~[(2) a wine and beer retailer's permit issued for a dining, buffet, or club car;] and~~

(2) ~~[(3)]~~ a mixed beverage permit during the three-year period following the issuance of the permit.

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SECTION 31. Same as House version.

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package store permit shall give notice of the application by publication at the applicant's ~~[his]~~ own expense in two consecutive issues of a newspaper of general circulation published in the city or town in which the applicant's ~~[his]~~ place of business is located. If no newspaper is published in the city or town, the notice shall be published in a newspaper of general circulation published in the county where the applicant's business is located. If no newspaper is published in the county, the notice shall be published in a qualified newspaper published in the closest neighboring county and circulated in the county of the applicant's residence.

(d) This section does not apply to:

- (1) an applicant for a nonprofit entity ~~[daily]~~ temporary event ~~[mixed beverage]~~ permit; or
- (2) commission authorization required to sell alcoholic beverages under Section 28.19 ~~[or a caterer's permit]~~.

SECTION 31. Section 11.391(c), Alcoholic Beverage Code, is amended to read as follows:

(c) This section does not apply to an applicant for a permit issued under Chapter 16, 19, 20, ~~[21,]~~ 22, 23, or 24~~[, or 52]~~.

SECTION 32. Section 11.392(a), Alcoholic Beverage Code, is amended to read as follows:

(a) The commission shall give notice of an application for a permit or renewal of a permit issued under Chapter 32, an application for a permit issued under Section 30.09, or an application for a certificate or renewal of a certificate issued to the holder of a private club registration permit under Chapter 29 ~~[or 33]~~ to:

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SECTION 32. Same as House version.

SECTION 33. Same as House version.

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- (1) the state senator and the state representative who represent the district in which the premises are located;
- (2) the municipal governing body, if the premises are located in an incorporated area, and the commissioners court of the county in which the premises are located; and
- (3) the chief of police of the municipality, if the premises are located in an incorporated area, and the sheriff of the county in which the premises are located.

SECTION 33. (a) Effective December 31, 2020, Subchapter B, Chapter 11, Alcoholic Beverage Code, is amended by amending Section 11.43 and adding Sections 11.431 and 11.432 to read as follows:

Sec. 11.43. APPLICATION REVIEW PROCESS ~~[DISCRETION TO GRANT OR REFUSE PERMIT]~~. (a) The commission ~~has~~ ~~[and administrator have]~~ discretionary authority ~~[to grant or refuse]~~ to issue an original or renewal permit or deny an application for an original or renewal permit under the provisions of this subchapter or any other applicable provision of this code.

(b) On receipt of an application for a permit under this code, the administrator shall evaluate the application. If a protest against the application has been filed, the administrator shall first evaluate the protest.

(c) If the administrator determines that no reasonable grounds exist for the protest, or if no protest has been filed, the administrator shall evaluate the permit application.

(d) If after evaluating the permit application under Subsection (c) the administrator finds that all facts stated in the application are true and no legal ground to deny the application exists, the administrator shall issue a permit if the

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SECTION 34. Same as House version.

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commission has delegated authority to issue permits to the administrator. If the commission has not delegated authority to issue permits to the administrator, the administrator shall recommend to the commission that the application be approved and the commission may issue the permit. If the commission does not issue the permit, the administrator shall refer the application for a hearing as provided by Subsection (h).

(e) If after the evaluation of a permit application the administrator finds a legal ground to deny the permit application, the administrator shall recommend to the commission that the application be denied. If the administrator recommends denial of the application, the applicant may request a hearing as provided by Subsection (h).

(f) If the administrator finds that reasonable grounds exist for the protest, the administrator shall evaluate the application in light of the protest. If, but for the protest, the administrator would approve the application, the administrator shall refer the protested application for a hearing. In a hearing on a protested application, the State Office of Administrative Hearings may request any information from the commission the office determines relevant.

(g) If after evaluating the application with the protest the administrator finds a legal ground to deny the permit application, the administrator shall recommend to the commission that the application be denied. If the administrator recommends denial of the application, the applicant may request a hearing as provided by Subsection (h).

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(h) A hearing under this section shall be conducted by the State Office of Administrative Hearings in a location authorized by Section 11.015. Chapter 2001, Government Code, applies to a hearing under this section. After a hearing the administrative law judge shall make findings of fact and conclusions of law and promptly issue to the commission a proposal for a decision on the application. Based on the findings of fact, conclusions of law, and proposal for a decision, the commission shall issue a final decision denying the application or issuing the permit.

(i) If the commission denies a permit application, the applicant may, after exhausting all administrative remedies, appeal the commission's decision to a Travis County district court.

(j) The commission shall adopt rules to implement the application review and protest process including reasonable timelines, identifying the roles and responsibilities of all parties involved in the process and identifying potential avenues for mediation or informal dispute resolution.

Sec. 11.431. PROTEST BY MEMBER OF THE PUBLIC.

(a) A member of the public may protest an application for:

(1) ~~[Notwithstanding any other provision of this code that authorizes the commission or administrator to refuse to issue a permit without a hearing, the commission or administrator shall hold a hearing before granting or refusing to issue]~~ an original mixed beverage permit, private club registration permit, or wine and beer retailer's permit~~[, or retail dealer's on-premise license]~~ if a sexually oriented business is to be operated on the premises to be covered by the permit;

(2) ~~[or license.~~

~~[(c) A hearing shall be held on]~~ any renewal ~~[application]~~ of a mixed beverage permit, private club registration permit, or

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wine and beer retailer's permit [~~or retail dealer's on-premise license~~] if a sexually oriented business is to be operated on the premises to be covered by the permit [~~or license~~] and a petition is presented to the commission requesting a hearing which is signed by 50 percent of the residents who reside within 300 feet of any property line of the affected premises;

(3) a private club registration permit or a permit authorizing the retail sale of alcoholic beverages for on-premises consumption if the person resides within 300 feet of any property line of the premises for which the permit is sought; and

(4) a mixed beverage permit or a wine and beer retailer's permit in a municipality with a population of 1,500,000 or more if:

(A) any point of the property line of the premise is less than 300 feet from the nearest point on a property line of a residence, church, school, hospital, day-care facility, or social service facility, as measured in a straight line; and

(B) 75 percent or more of the permittee's actual or anticipated gross revenue is from the sale of alcoholic beverages.

(b) In addition to the situations described by Subsection (a), the commission by rule may authorize a member of the public to protest other permit applications the commission considers appropriate.

(c) [~~(d)~~] A protest made under this section [~~request for a hearing made under Subsection (b) or (c) of this section~~] must include an allegation of grounds on which the original or renewal application, as applicable, should be denied.

Sec. 11.432. PROTEST BY GOVERNMENT OFFICIAL.

(a) The following persons may protest an application for an alcoholic beverage permit:

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(1) a state senator, state representative, county commissioner, or city council member who represents the area in which the premises sought to be permitted are located;

(2) the commissioners court of the county in which the premises sought to be permitted are located;

(3) the county judge of the county in which the premises sought to be permitted are located;

(4) the sheriff or county or district attorney of the county in which the premises sought to be permitted are located;

(5) the mayor of the city or town in which the premises sought to be permitted are located; and

(6) the chief of police, city marshal, or city attorney of the city or town in which the premises sought to be permitted are located.

(b) The commission may give due consideration to the recommendations of a person listed under Subsection (a) when evaluating an application for a permit under this code.

(b) Effective September 1, 2021, Subchapter B, Chapter 11, Alcoholic Beverage Code, is amended by amending Section 11.43 and adding Section 11.431 to read as follows:

Sec. 11.43. APPLICATION REVIEW PROCESS ~~[DISCRETION TO GRANT OR REFUSE PERMIT]~~. (a)

The commission ~~has~~ ~~and administrator have~~ discretionary authority ~~[to grant or refuse]~~ to issue an original or renewal permit or deny an application for an original or renewal permit under the provisions of this subchapter or any other applicable provision of this code.

(b) On receipt of an application for a permit under this code, the administrator shall evaluate the application. If a protest against the application has been filed, the administrator shall first evaluate the protest.

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(c) If the administrator determines that no reasonable grounds exist for the protest, or if no protest has been filed, the administrator shall evaluate the permit application.

(d) If after evaluating the permit application under Subsection (c) the administrator finds that all facts stated in the application are true and no legal ground to deny the application exists, the administrator shall issue a permit if the commission has delegated authority to issue permits to the administrator. If the commission has not delegated authority to issue permits to the administrator, the administrator shall recommend to the commission that the application be approved and the commission may issue the permit. If the commission does not issue the permit, the administrator shall refer the application for a hearing as provided by Subsection (h).

(e) If after the evaluation of a permit application the administrator finds a legal ground to deny the permit application, the administrator shall recommend to the commission that the application be denied. If the administrator recommends denial of the application, the applicant may request a hearing as provided by Subsection (h).

(f) If the administrator finds that reasonable grounds exist for the protest, the administrator shall evaluate the application in light of the protest. If, but for the protest, the administrator would approve the application, the administrator shall refer the protested application for a hearing. In a hearing on a protested application, the State Office of Administrative Hearings may request any information from the commission the office determines relevant.

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(g) If after evaluating the application with the protest the administrator finds a legal ground to deny the permit application, the administrator shall recommend to the commission that the application be denied. If the administrator recommends denial of the application, the applicant may request a hearing as provided by Subsection (h).

(h) A hearing under this section shall be conducted by the State Office of Administrative Hearings in a location authorized by Section 11.015. Chapter 2001, Government Code, applies to a hearing under this section. After a hearing the administrative law judge shall make findings of fact and conclusions of law and promptly issue to the commission a proposal for a decision on the application. Based on the findings of fact, conclusions of law, and proposal for a decision, the commission shall issue a final decision denying the application or issuing the permit.

(i) If the commission denies a permit application, the applicant may, after exhausting all administrative remedies, appeal the commission's decision to a Travis County district court.

(j) The commission shall adopt rules to implement the application review and protest process including reasonable timelines, identifying the roles and responsibilities of all parties involved in the process and identifying potential avenues for mediation or informal dispute resolution.

Sec. 11.431. PROTEST BY MEMBER OF THE PUBLIC.

(a) A member of the public may protest an application for:

(1) [Notwithstanding any other provision of this code that authorizes the commission or administrator to refuse to issue a permit without a hearing, the commission or administrator shall hold a hearing before granting or refusing to issue] an

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original mixed beverage permit, private club registration permit, or wine and malt beverage [beer] retailer's permit~~[- or retail dealer's on-premise license]~~ if a sexually oriented business is to be operated on the premises to be covered by the permit;

~~(2) [or license.~~

~~[(c) A hearing shall be held on] any renewal [application] of a mixed beverage permit, private club registration permit, or wine and malt beverage [beer] retailer's permit~~[- or retail dealer's on-premise license]~~ if a sexually oriented business is to be operated on the premises to be covered by the permit ~~[or license]~~ and a petition is presented to the commission requesting a hearing which is signed by 50 percent of the residents who reside within 300 feet of any property line of the affected premises;~~

~~(3) a private club registration permit or a permit authorizing the retail sale of alcoholic beverages for on-premises consumption if the person resides within 300 feet of any property line of the premises for which the permit is sought; and~~

~~(4) a mixed beverage permit or a wine and malt beverage retailer's permit in a municipality with a population of 1,500,000 or more if:~~

~~(A) any point of the property line of the premise is less than 300 feet from the nearest point on a property line of a residence, church, school, hospital, day-care facility, or social service facility, as measured in a straight line; and~~

~~(B) 75 percent or more of the permittee's actual or anticipated gross revenue is from the sale of alcoholic beverages.~~

~~(b) In addition to the situations described by Subsection (a), the commission by rule may authorize a member of the~~

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public to protest other permit applications the commission considers appropriate.

(c) [(d)] A protest made under this section [request for a hearing made under Subsection (b) or (c) of this section] must include an allegation of grounds on which the original or renewal application, as applicable, should be denied.

SECTION 34. Effective December 31, 2020, Section 11.44(b), Alcoholic Beverage Code, is amended to read as follows:

(b) The commission ~~[or administrator]~~ shall deny an application [refuse to issue] for ~~[a period of three years]~~ a permit or license for any location of [to] an applicant who submitted a prior application that expired or was voluntarily surrendered before the hearing on the application was held on a protest involving allegations of prostitution, a shooting, stabbing, or other violent act, or an offense involving drugs or trafficking of persons before the third anniversary of[- The three year period commences on] the date the prior application expired or was voluntarily surrendered.

SECTION 35. (a) Effective September 1, 2019, Section 11.46(a), Alcoholic Beverage Code, is amended to read as follows:

(a) The commission or administrator may refuse to issue an original or renewal permit with or without a hearing if it has reasonable grounds to believe and finds that any of the following circumstances exists:

(1) the applicant has been convicted in a court of competent jurisdiction of the violation of any provision of this code

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SECTION 35. Same as House version.

SECTION 36. Same as House version.

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during the two years immediately preceding the filing of the ~~[his]~~ application;

(2) five years have not elapsed since the termination, by pardon or otherwise, of a sentence imposed on the applicant for the conviction of a felony;

(3) within the six-month period immediately preceding the ~~[his]~~ application the applicant violated or caused to be violated a provision of this code or a rule or regulation of the commission which involves moral turpitude, as distinguished from a technical violation of this code or of the rule;

(4) the applicant failed to answer or falsely or incorrectly answered a question in an original or renewal application;

(5) the applicant is indebted to the state for any taxes, fees, or payment of penalty imposed by this code or by rule of the commission;

(6) the applicant is not of good moral character or the applicant's ~~[his]~~ reputation for being a peaceable, law-abiding citizen in the community where the applicant ~~[he]~~ resides is bad;

(7) the applicant is a minor;

(8) the place or manner in which the applicant may conduct the applicant's ~~[his]~~ business warrants the denial ~~[refusal]~~ of the application for a permit based on the general welfare, health, peace, morals, and safety of the people and on the public sense of decency;

(9) the applicant has developed an incapacity that prevents or could prevent the applicant from conducting the applicant's business with reasonable skill, competence, and safety to the public ~~[is in the habit of using alcoholic beverages to excess or is physically or mentally incapacitated]~~;

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(10) the applicant will sell liquor unlawfully in a dry area or in a manner contrary to law or will knowingly permit an agent, servant, or employee to do so;

(11) the applicant is not a United States citizen or has not been a citizen of Texas for a period of one year immediately preceding the filing of the applicant's ~~[his]~~ application, unless the applicant ~~[he]~~ was issued a permit or renewal permit on or before September 1, 1948, and has at some time been a United States citizen;

(12) the applicant does not provide an adequate building available at the address for which the permit is sought before conducting any activity authorized by the permit;

(13) the applicant is residentially domiciled with a person whose permit or license has been cancelled for cause within the 12 months immediately preceding the date of the applicant's ~~[his]~~ present application;

(14) the applicant has failed or refused to furnish a true copy of the applicant's ~~[his]~~ application to the commission's district office in the district in which the premises for which the permit is sought are located; or

(15) during the six months immediately preceding the filing of the application the premises for which the permit is sought have been operated, used, or frequented for a purpose or in a manner that is lewd, immoral, or offensive to public decency.

(b) Effective December 31, 2020, Section 11.46, Alcoholic Beverage Code, is amended to read as follows:

Sec. 11.46. GENERAL GROUNDS FOR DENIAL ~~[REFUSAL]~~. (a) The commission ~~[or administrator]~~ may deny an application for ~~[refuse to issue]~~ an original or renewal permit ~~[with or without a hearing]~~ if it has reasonable grounds to believe and finds that any of the following circumstances exists:

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- (1) the applicant has been convicted in a court of competent jurisdiction of the violation of any provision of this code during the two years immediately preceding the filing of the ~~his~~ application;
- (2) five years have not elapsed since the termination, by pardon or otherwise, of a sentence imposed on the applicant for the conviction of a felony;
- (3) within the six-month period immediately preceding the ~~his~~ application the applicant violated or caused to be violated a provision of this code or a rule or regulation of the commission which involves moral turpitude, as distinguished from a technical violation of this code or of the rule;
- (4) the applicant failed to answer or falsely or incorrectly answered a question in an original or renewal application;
- (5) the applicant is indebted to the state for any taxes, fees, or payment of penalty imposed by this code or by rule of the commission;
- (6) the applicant is not of good moral character or the applicant's ~~his~~ reputation for being a peaceable, law-abiding citizen in the community where the applicant ~~he~~ resides is bad;
- (7) the applicant is a minor;
- (8) the place or manner in which the applicant may conduct the applicant's ~~his~~ business warrants the denial ~~refusal~~ of the application for a permit based on the general welfare, health, peace, morals, and safety of the people and on the public sense of decency;
- (9) the applicant has developed an incapacity that prevents or could prevent the applicant from conducting the applicant's business with reasonable skill, competence, and safety to the public ~~is in the habit of using alcoholic~~

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~~beverages to excess or is physically or mentally incapacitated];~~

(10) the applicant will sell liquor unlawfully in a dry area or in a manner contrary to law or will knowingly permit an agent, servant, or employee to do so;

(11) the applicant is not a United States citizen or has not been a citizen of Texas for a period of one year immediately preceding the filing of the applicant's ~~[his]~~ application, unless the applicant ~~[he]~~ was issued a permit or renewal permit on or before September 1, 1948, and has at some time been a United States citizen;

(12) the applicant does not provide an adequate building available at the address for which the permit is sought before conducting any activity authorized by the permit;

(13) the applicant is residentially domiciled with a person whose permit or license has been cancelled for cause within the 12 months immediately preceding the date of the applicant's ~~[his]~~ present application;

(14) the applicant has failed or refused to furnish a true copy of the applicant's ~~[his]~~ application to the commission's district office in the district in which the premises for which the permit is sought are located; or

(15) during the six months immediately preceding the filing of the application the premises for which the permit is sought have been operated, used, or frequented for a purpose or in a manner that is lewd, immoral, or offensive to public decency.

(b) The commission ~~[or administrator]~~ shall deny an application for ~~[refuse to issue]~~ an original permit authorizing the retail sale of alcoholic beverages unless the applicant for the permit files with the application a certificate issued by the comptroller of public accounts stating that the applicant holds, or has applied for and satisfies all legal

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requirements for the issuance of, a sales tax permit, if required, for the place of business for which the alcoholic beverage permit is sought.

(c) The commission [~~or administrator~~] shall deny [~~refuse to issue~~] for a period of one year after cancellation an application for a mixed beverage permit or private club registration permit for a premises where a license or permit has been canceled during the preceding 12 months as a result of a shooting, stabbing, or other violent act, or as a result of an offense involving drugs, prostitution, or trafficking of persons.

(d) The commission [~~or administrator~~] shall deny an application for [~~refuse to issue~~] an original permit of [~~to~~] a person convicted of an offense under Section 101.76 for a period of five years from the date of the conviction.

SECTION 36. (a) Effective December 31, 2020, Section 11.47, Alcoholic Beverage Code, is amended to read as follows:

Sec. 11.47. DENIAL [~~REFUSAL~~] OF PERMIT: INTEREST IN BEER ESTABLISHMENT. The commission [~~or administrator~~] may deny an application for [~~refuse to issue~~] an original or renewal permit [~~with or without a hearing~~] if it has reasonable grounds to believe and finds that the applicant or a person with whom the applicant [~~he~~] is residentially domiciled has a financial interest in a permit or license authorizing the sale of beer at retail, except as is authorized by Section 22.06, 24.05, or 102.05 [~~of this code~~]. This section does not apply to an applicant for a permit which authorizes the sale of mixed beverages.

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SECTION 37. Same as House version.

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(b) Effective September 1, 2021, Section 11.47, Alcoholic Beverage Code, is amended to read as follows:

Sec. 11.47. DENIAL ~~[REFUSAL]~~ OF PERMIT: INTEREST IN MALT BEVERAGE ~~[BEER]~~ ESTABLISHMENT. The commission ~~[or administrator]~~ may deny an application for ~~[refuse to issue]~~ an original or renewal permit ~~[with or without a hearing]~~ if it has reasonable grounds to believe and finds that the applicant or a person with whom the applicant ~~[he]~~ is residentially domiciled has a financial interest in a permit or license authorizing the sale of malt beverages ~~[beer]~~ at retail, except as is authorized by Section 22.06, 24.05, or 102.05 ~~[of this code]~~. This section does not apply to an applicant for a permit which authorizes the sale of mixed beverages.

SECTION 37. Effective December 31, 2020, Section 11.48, Alcoholic Beverage Code, is amended to read as follows:

Sec. 11.48. DENIAL ~~[REFUSAL]~~ OF PACKAGE STORE OR MIXED BEVERAGE PERMIT. (a) The commission ~~[or administrator]~~ may deny an application for ~~[refuse to issue]~~ an original or renewal mixed beverage permit ~~[with or without a hearing]~~ if it has reasonable grounds to believe and finds that the applicant, directly or indirectly, or through a subsidiary, affiliate, agent, or employee, or through an officer, director, or firm member, owns an interest of any kind in the premises, business, or permit of a package store. (b) The commission ~~[or administrator]~~ may deny an application for ~~[refuse to issue]~~ an original or renewal package store permit ~~[with or without a hearing]~~ if it has reasonable grounds to believe and finds that the applicant, directly or indirectly, through a subsidiary, affiliate, agent,

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or employee, or through an officer, director, or firm member, owns an interest of any kind in the premises, business, or permit of a mixed beverage establishment.

(c) This section does not apply to anything permitted by Section 102.05 [~~of this code~~].

SECTION 38. Effective December 31, 2020, Section 11.481(b), Alcoholic Beverage Code, is amended to read as follows:

(b) The commission [~~or administrator~~] shall deny an application for [~~refuse to issue~~] an original or renewal permit authorizing on-premises consumption of alcoholic beverages [~~, with or without a hearing,~~] if the commission [~~or administrator~~] has reasonable grounds to believe and finds that, during the three years preceding the date the permit application was filed, a license or permit previously held under this code by the applicant, a person who owns the premises for which the permit is sought, or an officer of a person who owns the premises for which the permit is sought was canceled or not renewed as a result of a shooting, stabbing, or other violent act.

SECTION 39. Section 11.481(c), Alcoholic Beverage Code, is amended to read as follows:

(c) This section does not apply to the issuance of an original or renewal permit authorizing on-premises consumption for a location that also holds a food and beverage certificate but does not hold a retailer late hours certificate [~~permit~~].

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SECTION 39. Same as House version.

SECTION 40. Same as House version.

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SECTION 40. (a) Effective December 31, 2020, Section 11.49, Alcoholic Beverage Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b)~~(1)~~ Subject to the approval of the commission ~~[or the administrator]~~, and except as provided in Subsection (c) ~~[of this section]~~, an applicant for a permit or license may designate a portion of the grounds, buildings, vehicles, and appurtenances to be excluded from the licensed premises.

(b-1) ~~(2)~~ If ~~such~~ a designation under Subsection (b) has been made and approved as to the holder of a license or permit authorizing the sale of alcoholic beverages at retail or as to a private club registration permit, the sharing of space, employees, business facilities, and services with another business entity (including the permittee's lessor, which, if a corporation, may be a domestic or foreign corporation, but excluding a business entity holding any type of winery permit, a manufacturer's license, or a general~~[, local]~~ or branch distributor's license), does not constitute a subterfuge or surrender of exclusive control in violation of Section 109.53 or the use or display of the license for the benefit of another in violation of Section 61.71(a)(14). This subsection and Subsection (b) do ~~shall~~ not apply to original or renewal package store permits, wine only package store permits, local distributor's permits, or any type of wholesaler's permit ~~permits~~.

(b) Effective September 1, 2021, Section 11.49, Alcoholic Beverage Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b)~~(1)~~ Subject to the approval of the commission ~~[or the administrator]~~, and except as provided in Subsection (c) ~~[of this section]~~, an applicant for a permit or license may

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SECTION 41. Same as House version.

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designate a portion of the grounds, buildings, vehicles, and appurtenances to be excluded from the licensed premises.

~~(b-1)~~ ~~(2)~~ If ~~such~~ a designation under Subsection (b) has been made and approved as to the holder of a license or permit authorizing the sale of alcoholic beverages at retail or as to a private club registration permit, the sharing of space, employees, business facilities, and services with another business entity (including the permittee's lessor, which, if a corporation, may be a domestic or foreign corporation, but excluding a business entity holding any type of winery permit, a brewer's ~~manufacturer's~~ license, or a general ~~local,~~ or branch distributor's license), does not constitute a subterfuge or surrender of exclusive control in violation of Section 109.53 or the use or display of the license for the benefit of another in violation of Section 61.71(a)(14). This subsection and Subsection (b) do ~~shall~~ not apply to original or renewal package store permits, wine only package store permits, local distributor's permits, or any type of wholesaler's permit ~~permits~~.

SECTION 41. Effective September 1, 2021, Sections 11.49(d) and (e), Alcoholic Beverage Code, are amended to read as follows:

(d) Any package store, wine only package store, wholesaler's, or local distributor's permittee who is injured in the permittee's ~~his~~ business or property by another person (other than a person in the person's ~~his~~ capacity as the holder of a wine and malt beverage ~~beer~~ retailer's permit, wine and malt beverage ~~beer~~ retailer's off-premise permit, private club registration permit, or mixed beverage permit or any person in the capacity of lessor of the holder of such a

SENATE VERSION (IE)

SECTION 42. Same as House version.

CONFERENCE

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permit) by reason of anything prohibited in this section or Section 109.53 ~~[of this code]~~ is entitled to the same remedies available to a package store permittee under Section 109.53 ~~[of this code]~~. Except for actions brought against a person in the person's ~~[his]~~ capacity as the holder of or as the lessor of the holder of a wine and malt beverage ~~[beer]~~ retailer's permit, wine and malt beverage ~~[beer]~~ retailer's off-premise permit, mixed beverage permit, or private club registration permit, the statute of limitations for any action brought under this section or Section 109.53 ~~[of this code]~~ for any cause of action arising after the effective date of this Act is four years unless a false affidavit has been filed with the commission in which event the statute of limitations is 10 years for all purposes.

(e) When a designation under Subsection (b) ~~[of this section]~~ is made by a wine and malt beverage ~~[beer]~~ retailer or a malt beverage ~~[beer]~~ retailer, selling primarily for off-premise consumption, or by a wine and malt beverage ~~[beer]~~ retailer's off-premise permittee, no more than 20 percent of the retail floor and display space of the entire premises may be included in the licensed premises, and all the retail floor and display space in the licensed premises must be compact and contiguous and may not be gerrymandered. However, the retail floor and display space included in the licensed premises may be in two separate locations within the retail premises if the total retail floor and display space included in the licensed premises does not exceed 20 percent of the floor and display space of the entire premises and each of the two portions of floor and display space included in the licensed premises is itself compact and contiguous and not gerrymandered. In addition to the one or two separate locations of retail floor and display space on the premises,

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the licensed premises may include the cash register and check-out portions of the premises provided that (1) no alcoholic beverages are displayed in the check-out or cash register portion of the premises, and (2) the area of the check-out and cash register portions of the premises are counted towards the total of 20 percent of the retail floor and display space that may be dedicated to the sale and display of wine and malt beverages [~~beer~~]. A storage area that is not accessible or visible to the public may be included in the licensed premises but shall not be considered retail floor and display space for purposes of this section. The commission or administrator shall adopt rules to implement this subsection and to prevent gerrymandering.

SECTION 42. Sections 11.492(a) and (b), Alcoholic Beverage Code, are amended to read as follows:

(a) A holder of a wine and malt beverage [~~beer~~] retailer's permit may change the permit to a wine and malt beverage [~~beer~~] retailer's off-premise permit, and a holder of a retail dealer's on-premise license may change the license to a retail dealer's off-premise license, in the manner provided by this section.

(b) Any time before the expiration of a wine and malt beverage [~~beer~~] retailer's permit or a retail dealer's on-premise license the permittee or licensee may file an application for a change of permit or license under Subsection (a) [~~of this section~~]. The applicant must make the application on a form provided by the commission and the application must be accompanied by the appropriate fee for the permit or license sought.

SENATE VERSION (IE)

SECTION 43. Same as House version.

CONFERENCE

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SECTION 43. (a) Effective December 31, 2020, Section 11.52, Alcoholic Beverage Code, is amended to read as follows:

Sec. 11.52. RESTRICTIONS ON LOCATION IN CERTAIN MUNICIPALITIES. (a) In a municipality with a population of 1,500,000 or more, an applicant for an original or renewal ~~[on the assertion by any person of any justiciable grounds for a suspension, denial, cancellation, or refusal of a]~~ mixed beverage permit or [a] wine and beer retailer's permit~~[, the commission or county judge, as applicable,]~~ shall provide the notice required by Subsection (b) ~~[hold a hearing]~~ if:

(1) any point of the property line of the premise is less than 300 feet from the nearest point on a property line of a residence, church, school, hospital, day-care facility, or social service facility, as measured in a straight line; and

(2) 75 percent or more of the permittee's ~~[or licensee's]~~ actual or anticipated gross revenue is from the sale of alcoholic beverages.

(b) An applicant for an original or renewal permit shall give notice to all tenants or property owners affected in the area described by Subsection (a) ~~[of this section]~~ that an application has been made within five days after the application is first filed for an original application and at least 30 days prior to the expiration date of a permit in the case of a renewal application.

(b) Effective September 1, 2021, Section 11.52(a), Alcoholic Beverage Code, is amended to read as follows:

(a) In a municipality with a population of 1,500,000 or more, an applicant for an original or renewal ~~[on the assertion by any person of any justiciable grounds for a suspension, denial, cancellation, or refusal of a]~~ mixed beverage permit

SENATE VERSION (IE)

SECTION 44. Same as House version.

CONFERENCE

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or [a] wine and malt beverage [~~beer~~] retailer's permit~~[-the commission or county judge, as applicable,]~~ shall provide the notice required by Subsection (b) [~~hold a hearing~~] if:

- (1) any point of the property line of the premise is less than 300 feet from the nearest point on a property line of a residence, church, school, hospital, day-care facility, or social service facility, as measured in a straight line; and
- (2) 75 percent or more of the permittee's [~~or licensee's~~] actual or anticipated gross revenue is from the sale of alcoholic beverages.

SECTION 44. (a) Effective September 1, 2019, Section 11.61(b), Alcoholic Beverage Code, is amended to read as follows:

(b) The commission or administrator may suspend for not more than 60 days or cancel an original or renewal permit if it is found, after notice and hearing, that any of the following is true:

- (1) the permittee has been finally convicted of a violation of this code;
- (2) the permittee violated a provision of this code or a rule of the commission;
- (3) the permittee was finally convicted of a felony while holding an original or renewal permit;
- (4) the permittee made a false or misleading statement in connection with the permittee's [~~his~~] original or renewal application, either in the formal application itself or in any other written instrument relating to the application submitted to the commission, its officers, or employees;

SENATE VERSION (IE)

SECTION 45. Same as House version.

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(5) the permittee is indebted to the state for taxes, fees, or payment of penalties imposed by this code, by a rule of the commission, or by Chapter 183, Tax Code;

(6) the permittee is not of good moral character or the permittee's [his] reputation for being a peaceable and law-abiding citizen in the community where the permittee [he] resides is bad;

(7) the place or manner in which the permittee conducts the permittee's [his] business warrants the cancellation or suspension of the permit based on the general welfare, health, peace, morals, and safety of the people and on the public sense of decency;

(8) the permittee is not maintaining an acceptable bond;

(9) the permittee maintains a noisy, lewd, disorderly, or unsanitary establishment or has supplied impure or otherwise deleterious beverages;

(10) the permittee is insolvent or has developed an incapacity that prevents or could prevent the permittee from carrying on the management of the permittee's establishment with reasonable skill, competence, and safety to the public [mentally or physically unable to carry on the management of his establishment];

(11) the permittee is in the habit of using alcoholic beverages to excess;

(12) the permittee knowingly misrepresented to a customer or the public any liquor sold by the permittee [him];

(13) the permittee was intoxicated on the licensed premises;

(14) the permittee sold or delivered an alcoholic beverage to an intoxicated person;

(15) the permittee possessed on the licensed premises an alcoholic beverage that the permittee [he] was not authorized under the [by his] permit to purchase and sell;

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- (16) a package store or wine only package store permittee transported or shipped liquor, or caused it to be transported or shipped, into a dry state or a dry area within this state;
- (17) the permittee is residentially domiciled with a person who has a financial interest in an establishment engaged in the business of selling beer at retail, other than a mixed beverage establishment, except as authorized by Section 22.06, 24.05, or 102.05 [~~of this code~~];
- (18) the permittee is residentially domiciled with a person whose permit or license was cancelled for cause within the 12-month period preceding the permittee's [~~his~~] own application;
- (19) the permittee is not a citizen of the United States or has not been a citizen of Texas for a period of one year immediately preceding the filing of the permittee's [~~his~~] application, unless the permittee [~~he~~] was issued an original or renewal permit on or before September 1, 1948, and has been a United States citizen at some time;
- (20) the permittee permitted a person to open a container of alcoholic beverage or possess an open container of alcoholic beverage on the licensed premises unless a mixed beverage permit has been issued for the premises;
- (21) the permittee failed to promptly report to the commission a breach of the peace occurring on the permittee's licensed premises;
- (22) the permittee consumed an alcoholic beverage or permitted one to be consumed on the licensed premises at a time when the consumption of alcoholic beverages is prohibited by this code; or
- (23) the permittee sold, served, or delivered an alcoholic beverage at a time when its sale is prohibited.

SENATE VERSION (IE)

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(b) Effective September 1, 2021, Section 11.61(b), Alcoholic Beverage Code, is amended to read as follows:

(b) The commission or administrator may suspend for not more than 60 days or cancel an original or renewal permit if it is found, after notice and hearing, that any of the following is true:

(1) the permittee has been finally convicted of a violation of this code;

(2) the permittee violated a provision of this code or a rule of the commission;

(3) the permittee was finally convicted of a felony while holding an original or renewal permit;

(4) the permittee made a false or misleading statement in connection with the permittee's [~~his~~] original or renewal application, either in the formal application itself or in any other written instrument relating to the application submitted to the commission, its officers, or employees;

(5) the permittee is indebted to the state for taxes, fees, or payment of penalties imposed by this code, by a rule of the commission, or by Chapter 183, Tax Code;

(6) the permittee is not of good moral character or the permittee's [~~his~~] reputation for being a peaceable and law-abiding citizen in the community where the permittee [~~he~~] resides is bad;

(7) the place or manner in which the permittee conducts the permittee's [~~his~~] business warrants the cancellation or suspension of the permit based on the general welfare, health, peace, morals, and safety of the people and on the public sense of decency;

(8) the permittee is not maintaining an acceptable bond;

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(9) the permittee maintains a noisy, lewd, disorderly, or unsanitary establishment or has supplied impure or otherwise deleterious beverages;

(10) the permittee is insolvent or has developed an incapacity that prevents or could prevent the permittee from carrying on the management of the permittee's establishment with reasonable skill, competence, and safety to the public [~~mentally or physically unable to carry on the management of his establishment~~];

(11) the permittee is in the habit of using alcoholic beverages to excess;

(12) the permittee knowingly misrepresented to a customer or the public any liquor sold by the permittee [~~him~~];

(13) the permittee was intoxicated on the licensed premises;

(14) the permittee sold or delivered an alcoholic beverage to an intoxicated person;

(15) the permittee possessed on the licensed premises an alcoholic beverage that the permittee [~~he~~] was not authorized under the [~~by his~~] permit to purchase and sell;

(16) a package store or wine only package store permittee transported or shipped liquor, or caused it to be transported or shipped, into a dry state or a dry area within this state;

(17) the permittee is residentially domiciled with a person who has a financial interest in an establishment engaged in the business of selling malt beverages [~~beer~~] at retail, other than a mixed beverage establishment, except as authorized by Section 22.06, 24.05, or 102.05 [~~of this code~~];

(18) the permittee is residentially domiciled with a person whose permit or license was cancelled for cause within the 12-month period preceding the permittee's [~~his~~] own application;

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(19) the permittee is not a citizen of the United States or has not been a citizen of Texas for a period of one year immediately preceding the filing of the permittee's [~~his~~] application, unless the permittee [~~he~~] was issued an original or renewal permit on or before September 1, 1948, and has been a United States citizen at some time;

(20) the permittee permitted a person to open a container of alcoholic beverage or possess an open container of alcoholic beverage on the licensed premises unless a mixed beverage permit has been issued for the premises;

(21) the permittee failed to promptly report to the commission a breach of the peace occurring on the permittee's licensed premises;

(22) the permittee consumed an alcoholic beverage or permitted one to be consumed on the licensed premises at a time when the consumption of alcoholic beverages is prohibited by this code; or

(23) the permittee sold, served, or delivered an alcoholic beverage at a time when its sale is prohibited.

SECTION 45. Sections 11.61(b-1), (d), and (j), Alcoholic Beverage Code, are amended to read as follows:

(b-1) Notwithstanding Section 204.01 and any other provision of this code, a person applying for a license or permit under Chapter 25 or 69 for the on-premises consumption of malt beverages [~~beer~~] exclusively or malt beverages [~~beer~~] and wine exclusively, other than a license or permit for an establishment holding a food and beverage certificate whose primary business being operated on the premises is food service, must file with the commission a surety bond, in an amount to be determined by the

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commission, conditioned on the licensee's or permittee's conformance with the alcoholic beverage law. The bond is forfeited to the commission on the suspension of the license or permit for the first time under this section or Section 61.71. Before the suspended license or permit may be reinstated, the licensee or permittee must furnish a second surety bond, similarly conditioned, in an amount greater than the initial surety bond, the amount to be determined by the commission. If the same license or permit is suspended under this section or Section 61.71 a second time, the bond is again forfeited to the commission. Before the suspended license or permit may be reinstated, the licensee or permittee shall furnish a third surety bond, similarly conditioned, in an amount greater than the second surety bond, the amount to be determined by the commission. If the same license or permit is suspended under this section or Section 61.71 a third time, the bond is again forfeited to the commission and the license or permit shall be canceled by the commission. This subsection applies only to a license or permit held in connection with an establishment located in a county with a population of 1.4 million or more.

(d) The commission or administrator without a hearing may for investigative purposes summarily suspend a mixed beverage permit or a wine and malt beverage [~~beer~~] retailer's permit for not more than seven days if the commission or administrator finds that a shooting, stabbing, or murder has occurred on the licensed premises which is likely to result in a subsequent act of violence. Notice of the order suspending the permit shall be given to the permittee personally within 24 hours of the time the violent act occurs. If the permittee cannot be located, notice shall be provided by posting a copy of the order on the front door of the licensed premises.

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(j) A hearing under Subsection (b) must be concluded not later than the 60th day after notice is provided under that subsection. Neither the permittee nor the commission may waive the provisions of this subsection. This subsection applies only to a hearing in connection with a wine and malt beverage [~~beer~~] retailer's permit, other than a permit held with a food and beverage certificate, for premises located in a county with a population of 1.4 million or more.

SECTION 46. (a) Effective December 31, 2020, Section 11.612(a), Alcoholic Beverage Code, is amended to read as follows:

(a) The commission or administrator may cancel an original or a renewal permit issued under Chapter 32 or 33 and the commission may deny an application for [~~refuse to issue~~] any new alcoholic beverage permit for the same premises for one year after the date of cancellation if:

(1) the chief of police of the municipality, if the premises are located in an incorporated area, or the sheriff of the county in which the premises are located has submitted a sworn statement to the commission stating specific allegations that the place or manner in which the permittee conducts its business endangers the general welfare, health, peace, morals, or safety of the community; and

(2) the commission or administrator finds, after notice and hearing within the county where the premises are located, that the place or manner in which the permittee conducts its business does in fact endanger the general welfare, health, peace, morals, or safety of the community.

(b) Effective September 1, 2021, Section 11.612(a), Alcoholic Beverage Code, is amended to read as follows:

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SECTION 47. Same as House version.

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(a) The commission or administrator may cancel an original or a renewal certificate [~~permit~~] issued under Chapter 29 to the holder of a private club registration permit or a permit issued under Chapter 32 [~~or 33~~] and the commission may deny an application for [~~refuse to issue~~] any new alcoholic beverage permit for the same premises for one year after the date of cancellation if:

(1) the chief of police of the municipality, if the premises are located in an incorporated area, or the sheriff of the county in which the premises are located has submitted a sworn statement to the commission stating specific allegations that the place or manner in which the permittee conducts its business endangers the general welfare, health, peace, morals, or safety of the community; and

(2) the commission or administrator finds, after notice and hearing within the county where the premises are located, that the place or manner in which the permittee conducts its business does in fact endanger the general welfare, health, peace, morals, or safety of the community.

SECTION 47. Section 11.613, Alcoholic Beverage Code, is amended to read as follows:

Sec. 11.613. SUMMARY SUSPENSION OF PRIVATE CLUB PERMIT. The commission or administrator without a hearing may for investigative purposes summarily suspend a certificate [~~permit~~] issued under Chapter 29 to the holder of a private club registration permit or a permit issued under Chapter 32 [~~or 33~~] for not more than seven days if the commission or administrator finds that a shooting, stabbing, or murder has occurred on the licensed premises that is likely to result in a subsequent act of violence. Notice of the order

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SECTION 48. Same as House version.

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suspending the permit shall be given to the permittee personally within 72 hours of the time the violent act occurs. If the permittee cannot be located, notice shall be provided by posting a copy of the order on the front door of the licensed premises.

SECTION 48. Effective September 1, 2019, Subchapter C, Chapter 11, Alcoholic Beverage Code, is amended by adding Sections 11.614 and 11.615 to read as follows:

Sec. 11.614. ORDER SUSPENDING PERMIT OR LICENSE. (a) If the commission or administrator determines that the continued operation of a permitted or licensed business would constitute a continuing threat to the public welfare, the commission or administrator may issue an emergency order, without a hearing, suspending the permit or license for not more than 90 days.

(b) An order suspending a permit or license under this section must state the length of the suspension in the order.

(c) If an emergency order is issued under this section without a hearing, the commission or administrator shall set the time and place for a hearing to be conducted not later than the 10th day after the date the order was issued by the State Office of Administrative Hearings to affirm, modify, or set aside the emergency order. The order shall be affirmed to the extent that reasonable cause existed to issue the order.

(d) The commission by rule may prescribe procedures for the determination and appeal of an emergency order issued under this section, including a rule allowing the commission

SENATE VERSION (IE)

SECTION 49. Effective September 1, 2019, Subchapter C, Chapter 11, Alcoholic Beverage Code, is amended by adding Sections 11.614 and 11.615 to read as follows:

Sec. 11.614. ORDER SUSPENDING PERMIT OR LICENSE. (a) If the commission or administrator determines that the continued operation of a permitted or licensed business would constitute a continuing threat to the public welfare, the commission or administrator may issue an emergency order, without a hearing, suspending the permit or license for not more than 90 days.

(b) An order suspending a permit or license under this section must state the length of the suspension in the order.

(c) If an emergency order is issued without a hearing under this section, the commission or administrator shall set the time and place for a hearing to be conducted not later than the 10th day after the date the order was issued. A hearing under this section to affirm, modify, or set aside the emergency order shall be conducted by the State Office of Administrative Hearings at a location authorized by Section 11.015. The order shall be affirmed to the extent that reasonable cause existed to issue the order.

(d) The commission by rule may prescribe procedures for the determination and appeal of an emergency order issued under this section, including a rule allowing the commission

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to affirm, modify, or set aside a decision made by the State Office of Administrative Hearings under Subsection (c).

(e) A proceeding under this section is a contested case under Chapter 2001, Government Code.

Sec. 11.615. DISCIPLINARY ACTION FOR VIOLATION OF ORDER. The commission may deny an application for an original or renewal permit or license or take other disciplinary action against a permit or license holder who violates an order of the commission or administrator.

SECTION 49. Effective December 31, 2020, Section 11.63, Alcoholic Beverage Code, is amended to read as follows:

Sec. 11.63. NOTICE OF HEARING. At least 10 days' notice shall be given when a hearing is provided by this code. A notice of hearing for the denial ~~[refusal]~~, cancellation, or suspension of a license or permit may be served personally by a representative of the commission or sent by registered or certified mail addressed to the licensee or permittee.

SECTION 50. Effective September 1, 2019, Sections 11.641(a) and (b), Alcoholic Beverage Code, are amended to read as follows:

(a) The amount of the civil penalty under Section 11.64 must be appropriate for the nature and seriousness of the violation. In determining the amount of the civil penalty, the commission or administrator shall consider:

- (1) the type of license or permit held;
- (2) the type of violation;

SENATE VERSION (IE)

to affirm, modify, or set aside a decision made by the State Office of Administrative Hearings under Subsection (c).

(e) A proceeding under this section is a contested case under Chapter 2001, Government Code.

Sec. 11.615. DISCIPLINARY ACTION FOR VIOLATION OF ORDER. The commission may deny an application for an original or renewal permit or license or take other disciplinary action against a permit or license holder who violates an order of the commission or administrator.

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SECTION 51. Same as House version.

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- (3) any aggravating or ameliorating circumstances concerning the violation, including those enumerated in Section 11.64(c); ~~and~~
- (4) the permittee's or licensee's previous violations; and
- (5) if the commission or administrator determines the permittee or licensee has previously violated this code, whether the permittee or licensee profited from the violation, and if so the amount of the permittee's or licensee's profit.
- (b) Except as provided by Subsection (a), the [The] amount of the civil penalty may not be based on:
 - (1) the volume of alcoholic beverages sold;
 - (2) the receipts of the business;
 - (3) the taxes paid; or
 - (4) the financial condition of the permittee or licensee.

SECTION 51. Effective December 31, 2020, the heading to Section 11.67, Alcoholic Beverage Code, is amended to read as follows:

Sec. 11.67. APPEAL FROM CANCELLATION, SUSPENSION, OR DENIAL ~~[REFUSAL]~~ OF LICENSE OR PERMIT.

SECTION 52. Effective December 31, 2020, Sections 11.67(a), (c), and (d), Alcoholic Beverage Code, are amended to read as follows:

- (a) An appeal from an order of the commission or administrator ~~[refusing,]~~ cancelling[;] or suspending a permit or license may be taken to the district court of the county in which the ~~[applicant,]~~ licensee[;] or permittee resides or in

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SECTION 52. Same as House version.

SECTION 53. Same as House version.

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which the owner of involved real or personal property resides.

(c) A local official[;] on record as protesting the issuance or renewal of a permit or license [~~at a hearing provided by this code,~~] is entitled to notice of the appeal. If other persons are on record as protesting the issuance or renewal of a permit or license [~~at a hearing provided by this code,~~] the first three persons to be on record are entitled to notice of the appeal. The appellant is responsible for causing the notice to be given. The notice shall be given by sending, on or before the third day after the date on which the appeal is filed, a copy of the petition by registered or certified mail to the persons entitled to receive the notice.

(d) If the appeal is from an order denying an application for an original [~~refusing the issuance~~] or renewal [~~of a~~] permit or license for a business that is sexually oriented, any person may appear on appeal against the issuance or renewal of the license or permit. However, the court may grant a motion to strike the person's appearance on a showing that the person does not have a justiciable or administratively cognizable interest in the proceeding.

SECTION 53. Effective September 1, 2019, Section 11.72, Alcoholic Beverage Code, is amended to read as follows:
Sec. 11.72. DISCIPLINE FOR ACTIONS OF AGENT;
RECORDS RETENTION. (a) The commission or administrator may suspend or revoke the permit of a person who is represented by [~~the holder of~~] an agent [~~agent's permit~~] under Section 15.01, 35.01, or 36.01 or otherwise discipline the person based on an act or omission of the

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SECTION 54. Same as House version.

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~~person's agent [holder of the agent's permit]~~ only if an individual employed by the person in a supervisory position:
(1) was directly involved in the act or omission of the agent ~~[holder of the agent's permit]~~;
(2) had notice or knowledge of the act or omission; or
(3) failed to take reasonable steps to prevent the act or omission.

(b) The holder of a permit who is represented by an agent shall maintain records relating to the agent's activities, including any representation agreement, employment records, or similar documents, for not less than four years from the date the record is created.

SECTION 54. Effective September 1, 2019, Section 11.73, Alcoholic Beverage Code, is amended to read as follows:

Sec. 11.73. AFFIRMATION OF COMPLIANCE. A person who holds a permit under Chapter 19, 20, ~~[21,]~~ or 23 may not be subject to an administrative sanction for selling or delivering an alcoholic beverage to a retailer not authorized to purchase and receive the alcoholic beverage if the permit holder:

- (1) reasonably believes that the retailer is authorized to purchase and receive that type of alcoholic beverage; and
- (2) obtains from the retailer at the time of delivery a written affirmation, which may be printed or stamped on a sales invoice evidencing the sale or delivery of alcoholic beverages by the permit holder, that the retailer is authorized to purchase and receive the type of alcoholic beverage sold and delivered by the permit holder.

SENATE VERSION (IE)

SECTION 55. Same as House version.

CONFERENCE

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HOUSE VERSION

No equivalent provision.

SECTION 55. Effective September 1, 2019, Section 12.052, Alcoholic Beverage Code, is amended by amending Subsections (a), (c), and (e) and adding Subsections (a-1), (e-1), and (g) to read as follows:

(a) In addition to the activities authorized by Section 12.01, the holder of a brewer's permit whose annual production of ale, together with the annual production of beer by the holder of a manufacturer's license at all premises wholly or partly owned, directly or indirectly, by the permit holder or an affiliate or subsidiary of the permit holder, does not exceed a total of 225,000 barrels may sell ale produced on the

SENATE VERSION (IE)

SECTION 56. (a) Effective September 1, 2019, Chapter 12, Alcoholic Beverage Code, is amended by adding Section 12.015 to read as follows:

Sec. 12.015. IMPORTATION OF ALE AND MALT LIQUOR FOR MANUFACTURE. (a) The holder of a brewer's permit may:

(1) import ale and malt liquor for manufacturing purposes from a holder of a nonresident brewer's permit; and

(2) mix and blend ale and malt liquor imported under Subdivision (1) and bottle and sell the resultant product.

(b) The state tax on ale and malt liquor imported for manufacturing purposes does not accrue until:

(1) the ale or malt liquor has been used for manufacturing purposes; and

(2) the resultant product has been placed in containers for sale.

(b) If a conflict exists between this Act and S.B. 928, Acts of the 86th Legislature, Regular Session, 2019, this Act controls without regard to the relative dates of enactment.

SECTION __. Effective September 1, 2019, Section 12.052, Alcoholic Beverage Code, is amended by amending Subsection (a) and adding Subsections (a-1), (e-1), and (g) to read as follows:

(a) In addition to the activities authorized by Section 12.01, the holder of a brewer's permit whose annual production of ale, together with the annual production of beer by the holder of a manufacturer's license at all premises wholly or partly owned, directly or indirectly, by the permit holder or an affiliate or subsidiary of the permit holder, does not exceed a total of 225,000 barrels may sell ale produced on the

CONFERENCE

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brewer's premises under the permit to ultimate consumers on the brewer's premises;

- (1) for responsible consumption on the brewer's premises; or
(2) subject to Subsection (a-1), for off-premises consumption.

(a-1) Sales to a consumer on the brewer's premises for off-premises consumption are limited to 576 fluid ounces of beer and ale combined per calendar day.

(c) Subject to Subsections (b), (d), and (e), the holder of a brewer's permit may sell ale produced on the brewer's premises under the permit to ultimate consumers on the brewer's premises for responsible consumption on the brewer's premises or for off-premises consumption even if the annual production limit prescribed by Subsection (a) is exceeded if:

(1) the permit holder:

(A) was legally operating a manufacturing facility with on-premise sales under Subsection (a) on February 1, 2017; or
(B) purchased an ownership interest in, or was purchased by the holder of, a permit or license issued under Chapter 12, 13, 62, or 63; and

(2) the permit holder has annual production that does not exceed 175,000 barrels at the brewer's premises.

(e) A holder of a brewer's permit who under Subsection (c) sells ale produced on the brewer's premises under the permit to ultimate consumers on the brewer's premises for responsible consumption on the brewer's premises or for off-premises consumption:

(1) shall file a territorial agreement with the commission under Subchapters C and D, Chapter 102;

SENATE VERSION (IE)

brewer's premises under the permit to ultimate consumers on the brewer's premises;

- (1) for responsible consumption on the brewer's premises; or
(2) subject to Subsection (a-1), for off-premises consumption.

(a-1) Sales to a consumer on the brewer's premises for off-premises consumption are limited to 288 fluid ounces of beer and ale combined per calendar day.

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(2) must purchase any ale the permit holder sells on the brewer's premises from the holder of a permit issued under Chapter 19, 20, or 21; and

(3) with respect to those purchases, must comply with the requirements of this code governing dealings between a distributor or wholesaler and a member of the retail tier, including Section 102.31.

(e-1) The commission:

(1) may require the holder of a brewer's permit who sells ale to ultimate consumers under this section to report to the commission each month, in the manner prescribed by the commission, the total amounts of ale sold by the permit holder under this section during the preceding month for:

(A) responsible consumption on the brewer's premises; and
(B) off-premises consumption;

(2) by rule shall adopt a simple form for a report required under Subdivision (1); and

(3) shall maintain reports received under this subsection for public review.

(g) Notwithstanding any other provision of this code, the holder of a brewer's permit whose annual production exceeds the limit prescribed by Subsection (a) and who was legally

SENATE VERSION (IE)

(e-1) The commission:

(1) may require the holder of a brewer's permit who sells ale to ultimate consumers under this section to report to the commission each month, in the manner prescribed by the commission, the total amounts of ale sold by the permit holder under this section during the preceding month for:

(A) responsible consumption on the brewer's premises; and
(B) off-premises consumption, as authorized by Subsection (a);

(2) by rule shall adopt a simple form for a report required under Subdivision (1); and

(3) shall maintain reports received under this subsection for public review.

(g) The commission may impose an administrative penalty against a permit holder who violates Subsection (a-1) or fails to comply with a requirement established by the commission under Subsection (e-1). The commission shall adopt rules establishing:

(1) the amount of an administrative penalty under this subsection; and

(2) the procedures for imposing an administrative penalty under this subsection. [FA3(4)]

CONFERENCE

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operating a facility with on-premise sales under Subsection (a) or Section 62.122(a) on February 1, 2017, may establish not more than two additional facilities with on-premise sales under Subsection (a) or Section 62.122(a) if each premises:
(1) does not produce more than a total of 225,000 barrels of beer and ale combined; and
(2) complies with the requirements of:
(A) Subsections (b) and (e); and
(B) Sections 62.122(b) and (e).

SECTION 56. Effective September 1, 2019, Section 14.01(a), Alcoholic Beverage Code, is amended to read as follows:

- (a) The holder of a distiller's and rectifier's permit may:
- (1) manufacture distilled spirits;
 - (2) rectify, purify, and refine distilled spirits and wines;
 - (3) mix wines, distilled spirits, or other liquors;
 - (4) bottle, label, and package the permit holder's finished products;
 - (5) sell the finished products in this state to holders of wholesaler's permits and to qualified persons outside the state;
 - (6) purchase distilled spirits, to be used only for manufacturing or rectification purposes, from holders of nonresident seller's permits or distiller's and rectifier's permits;
 - (7) dispense free distilled spirits for consumption on the permitted premises under Section 14.04;
 - (8) sell bulk alcohol produced by the permit holder for purposes described by Section 38.01 ~~[to holders of industrial permits in this state]~~; and

SENATE VERSION (IE)

SECTION 57. Same as House version.

CONFERENCE

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(9) sell distilled spirits to ultimate consumers under Section 14.04 or 14.05.

SECTION 57. Effective September 1, 2019, Section 14.06, Alcoholic Beverage Code, is amended to read as follows:
Sec. 14.06. REPORT OF CERTAIN SALES. A holder of a distiller's and rectifier's permit who sells distilled spirits [~~to a holder of an industrial permit~~] under Section 14.01(a)(8) shall keep records of those sales in a manner prescribed by the commission or administrator.

SECTION 58. Chapter 14, Alcoholic Beverage Code, is amended by adding Section 14.07 to read as follows:
Sec. 14.07. TRANSPORTING LIQUOR. (a) The holder of a distiller's and rectifier's permit may transport liquor, if the transportation is for a lawful purpose, from:
(1) the place of purchase to the holder's place of business;
and
(2) the place of sale or distribution to the purchaser.
(b) The holder of a distiller's and rectifier's permit may transport liquor from one wet area to another wet area across a dry area if that course of transportation is necessary or convenient.
(c) The holder of a distiller's and rectifier's permit transporting liquor under this section shall provide to the commission:
(1) a full description of each motor vehicle used by the permit holder for transporting liquor; and
(2) any other information the commission requires.

SENATE VERSION (IE)

SECTION 58. Same as House version.

SECTION 59. Same as House version.

CONFERENCE

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(d) The holder of a distiller's and rectifier's permit may transport liquor only in a vehicle that is:

(1) described by Subsection (c)(1);

(2) owned or leased in good faith by the permit holder or by the permit holder's agent; and

(3) printed or painted with the designation required by the commission.

SECTION 59. Chapter 14, Alcoholic Beverage Code, is amended by adding Section 14.08 to read as follows:

Sec. 14.08. STORAGE. (a) The holder of a distiller's and rectifier's permit may store liquor:

(1) on the permit holder's premises; or

(2) inside the county in which the permit holder's business is located in a:

(A) public bonded warehouse authorized to store liquor under Chapter 46; or

(B) private warehouse that is:

(i) owned or leased by the permit holder; and

(ii) operated by the permit holder.

(b) The holder of a distiller's and rectifier's permit may not store liquor in a dry area.

SECTION 60. Effective September 1, 2019, the heading to Chapter 15, Alcoholic Beverage Code, is amended to read as follows:

CHAPTER 15. DISTILLER'S AGENT [~~AGENT'S PERMIT~~]

SENATE VERSION (IE)

SECTION 60. Same as House version.

SECTION 61. Same as House version.

CONFERENCE

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SECTION 61. Effective September 1, 2019, Section 15.01, Alcoholic Beverage Code, is amended to read as follows:

Sec. 15.01. AUTHORIZED ACTIVITIES. (a) A ~~[The holder of a]~~ distiller's agent ~~[agent's permit]~~ may:

- (1) represent the holder of a distiller's and rectifier's permit;
- (2) solicit and take orders from a holder of a wholesaler's permit for the sale of distilled spirits manufactured by the permit holder represented by the agent; and
- (3) conduct free distilled spirits tastings for consumers on the premises of the holder of a package store permit.

(b) A person acting as an agent may only represent one permitted or licensed business at a time while soliciting or taking orders.

SECTION 62. Effective September 1, 2019, Section 15.04, Alcoholic Beverage Code, is amended to read as follows:

Sec. 15.04. SOLICITATION FROM HOLDER OF MIXED BEVERAGE OR PRIVATE CLUB PERMIT. A ~~[holder of a]~~ distiller's agent ~~[agent's permit]~~ may not solicit business directly or indirectly from a holder of a mixed beverage permit or a private club registration permit unless the distiller's agent is accompanied by the holder of a wholesaler's permit or the wholesaler's agent.

SECTION 63. Effective September 1, 2019, Section 15.05, Alcoholic Beverage Code, is amended to read as follows:

Sec. 15.05. UNAUTHORIZED REPRESENTATION. A ~~[holder of a]~~ distiller's agent ~~[agent's permit]~~ in soliciting or taking orders for the sale of liquor may not represent that the agent ~~[permit holder]~~ is an agent of any person other than the

SENATE VERSION (IE)

SECTION 62. Same as House version.

SECTION 63. Same as House version.

SECTION 64. Same as House version.

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person who employs the agent or who has authorized the agent to represent the person ~~[designated in the permit holder's application]~~.

SECTION 64. Effective September 1, 2019, Section 16.01(a), Alcoholic Beverage Code, is amended to read as follows:

(a) Except as provided by Section 16.011, the holder of a winery permit may:

(1) manufacture, bottle, label, and package wine containing not more than 24 percent alcohol by volume;

(2) manufacture fruit brandy and:

(A) use that brandy on the winery permit holder's permitted premises for fortifying purposes only; or

(B) sell that brandy to other winery permit holders;

(3) import or buy fruit brandy from a permit holder authorized to manufacture fruit brandy and use that brandy on the winery permit holder's permitted premises for fortifying purposes only;

(4) sell wine in this state to or buy wine from permit holders authorized to purchase and sell wine, including holders of wholesaler's permits and winery permits ~~and wine bottler's permits~~;

(5) sell wine to ultimate consumers:

(A) for consumption on the winery premises; or

(B) in unbroken packages for off-premises consumption in an amount not to exceed 35,000 gallons annually;

(6) sell the wine outside this state to qualified persons;

(7) blend wines;

(8) dispense free wine for consumption on the winery premises; and

SENATE VERSION (IE)

SECTION 65. Same as House version.

CONFERENCE

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(9) purchase and import wine from the holder of a nonresident seller's permit.

SECTION 65. Effective September 1, 2019, Section 16.04, Alcoholic Beverage Code, is amended to read as follows:
Sec. 16.04. FEDERAL PERMIT REQUIRED. A winery permit may be granted only on presentation of an appropriate ~~[a winemaker's and blender's basic permit of the]~~ federal wine permit ~~[alcohol tax unit]~~.

SECTION 66. Section 16.08(b), Alcoholic Beverage Code, is amended to read as follows:
(b) The holder of a winery permit may sell wine to the holder of a wine and malt beverage retailer's permit, mixed beverage permit, private club permit, or nonprofit entity temporary event permit ~~[issued under Chapter 27, 30, or 33]~~ for an event that is approved by the commission and organized to celebrate and promote the wine industry in this state.

SECTION 67. Chapter 16, Alcoholic Beverage Code, is amended by adding Section 16.10 to read as follows:
Sec. 16.10. TRANSPORTING WINE. (a) The holder of a winery permit may transport wine, if the transportation is for a lawful purpose, from:
(1) the place of purchase to the holder's place of business;
and
(2) the place of sale or distribution to the purchaser.

SENATE VERSION (IE)

SECTION 66. Same as House version.

SECTION 67. Same as House version.

SECTION 68. Same as House version.

CONFERENCE

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(b) The holder of a winery permit may transport wine from one wet area to another wet area across a dry area if that course of transportation is necessary or convenient.

(c) The holder of a winery permit may transport wine only in a vehicle that is owned or leased in good faith by the permit holder or by the permit holder's agent.

SECTION 68. Chapter 16, Alcoholic Beverage Code, is amended by adding Section 16.11 to read as follows:

Sec. 16.11. STORAGE. (a) The holder of a winery permit may store wine:

(1) on the permit holder's premises; or

(2) inside or outside the county in which the permit holder's business is located in a:

(A) public bonded warehouse that is authorized to store liquor under Chapter 46; or

(B) private warehouse that is:

(i) owned or leased by the permit holder; and

(ii) operated by the permit holder.

(b) The holder of a winery permit whose winery is located in a county all or part of which is in a dry area may store the winery's product in a dry area of that county if the product to be stored is owned by the permit holder and remains in the permit holder's possession.

SECTION 69. Chapter 16, Alcoholic Beverage Code, is amended by adding Section 16.12 to read as follows:

Sec. 16.12. SALES AT TEMPORARY LOCATION. (a) The holder of a winery permit may sell wine at a civic or wine festival, farmers' market, celebration, or similar event.

SENATE VERSION (IE)

SECTION 69. Same as House version.

SECTION 70. Same as House version.

CONFERENCE

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(b) The holder of a winery permit may not offer wine for sale under this section on more than four consecutive days at the same location.

(c) The commission shall adopt rules to implement this section, including rules that:

(1) require the permit holder to notify the commission of the dates on which and location where the permit holder will temporarily offer wine for sale under this section;

(2) establish a procedure to verify the wet or dry status of the location where the permit holder intends to temporarily sell wine under this section;

(3) detail the circumstances when a permit holder may temporarily sell wine under this section with just a notification to the commission and the circumstances that require the commission's preapproval before a permit holder may temporarily sell wine under this section; and

(4) require the permit holder to provide any other information the commission determines necessary.

(d) The provisions of this code applicable to the sale of wine on the permitted premises of the holder of a winery permit apply to the sale of wine under this section.

SECTION 70. (a) Effective September 1, 2019, Section 19.01, Alcoholic Beverage Code, is amended to read as follows:

Sec. 19.01. AUTHORIZED ACTIVITIES. The holder of a wholesaler's permit may:

(1) purchase and import liquor from distillers, brewers, wineries, ~~wine bottlers,~~ rectifiers, and manufacturers who are holders of nonresident seller's permits or from their agents ~~[who hold manufacturer's agents permits];~~

SENATE VERSION (IE)

CONFERENCE

SECTION 71. Same as House version.

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- (2) purchase liquor from other wholesalers in the state;
- (3) sell liquor in the original containers in which it is received to retailers and wholesalers in this state authorized to sell the liquor;
- (4) sell liquor to qualified persons outside the state; and
- (5) sell ale and malt liquor to a holder of a private club registration permit.

(b) Effective September 1, 2021, Section 19.01, Alcoholic Beverage Code, is amended to read as follows:

Sec. 19.01. AUTHORIZED ACTIVITIES. The holder of a wholesaler's permit may:

- (1) purchase and import liquor from distillers, [~~brewers,~~] wineries, and [~~wine bottlers,~~] rectifiers[~~, and manufacturers~~] who are holders of nonresident seller's permits or from their agents [~~who hold manufacturer's agents permits~~];
- (2) purchase liquor from other wholesalers in the state;
- (3) sell liquor in the original containers in which it is received to retailers and wholesalers in this state authorized to sell the liquor; and
- (4) sell liquor to qualified persons outside the state[~~; and~~];
- [~~(5) sell ale and malt liquor to a holder of a private club registration permit~~].

SECTION 71. Section 19.03, Alcoholic Beverage Code, is amended to read as follows:

Sec. 19.03. PROMOTIONAL ACTIVITIES. The holder of a wholesaler's permit or the permittee's [~~his~~] agent may enter the licensed premises of a mixed beverage permittee or private club registration permittee to determine the brands offered for sale and suggest or promote the sale of other brands, to the extent authorized by Section 102.07 [~~of this~~]

SENATE VERSION (IE)

SECTION 72. Same as House version.

CONFERENCE

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~~code~~. The holder of a wholesaler's permit or the permittee's [his] agent may not accept a direct order from a mixed beverage permittee except for wine [~~or malt liquor~~].

SECTION 72. Section 19.04, Alcoholic Beverage Code, is amended to read as follows:

Sec. 19.04. MINIATURE CONTAINERS. In addition to other authorized containers, a wholesaler's permittee may import, sell, offer for sale, and possess for the purpose of resale distilled spirits, wine, and vinous liquors in containers of not less than one ounce nor more than two ounces. Liquor in containers of that size may be sold to:

- (1) package store permittees for resale to certain passenger transportation [airline beverage] permittees, as provided in Section 48.03 [34.05 of this code]; and
- (2) local distributor's permittees.

SECTION 73. Chapter 19, Alcoholic Beverage Code, is amended by adding Section 19.06 to read as follows:

Sec. 19.06. TRANSPORTING LIQUOR. (a) The holder of a wholesaler's permit may transport liquor, if the transportation is for a lawful purpose, from:

- (1) the place of purchase to the holder's place of business;
and
- (2) the place of sale or distribution to the purchaser.
- (b) The holder of a wholesaler's permit may transport liquor from one wet area to another wet area across a dry area if that course of transportation is necessary or convenient.
- (c) The holder of a wholesaler's permit transporting liquor under this section shall provide to the commission:

SENATE VERSION (IE)

SECTION 73. Same as House version.

SECTION 74. Same as House version.

CONFERENCE

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- (1) a full description of each motor vehicle used by the permit holder for transporting liquor; and
- (2) any other information the commission requires.
- (d) The holder of a wholesaler's permit may transport liquor only in a vehicle that is:
 - (1) described by Subsection (c)(1);
 - (2) owned or leased in good faith by the permit holder or by the permit holder's agent; and
 - (3) printed or painted with the designation required by the commission.

SECTION 74. Chapter 19, Alcoholic Beverage Code, is amended by adding Section 19.07 to read as follows:

Sec. 19.07. STORAGE. (a) The holder of a wholesaler's permit may store liquor:

- (1) on the permit holder's premises; or
- (2) inside the county in which the permit holder's business is located in a:
 - (A) public bonded warehouse authorized to store liquor under Chapter 46; or
 - (B) private warehouse that is:
 - (i) owned or leased by the permit holder; and
 - (ii) operated by the permit holder.
- (b) The holder of a wholesaler's permit may not store liquor in a dry area.

SECTION 75. (a) Effective September 1, 2019, Section 20.01, Alcoholic Beverage Code, is amended to read as follows:

SENATE VERSION (IE)

SECTION 75. Same as House version.

SECTION 76. Same as House version.

CONFERENCE

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Sec. 20.01. AUTHORIZED ACTIVITIES. The holder of a general class B wholesaler's permit may:

(1) purchase and import malt and vinous liquors from brewers, wineries, rectifiers, and wine manufacturers [~~and wine bottlers~~] who are the holders of nonresident seller's permits or their agents [~~who are holders of manufacturer's agent permits~~];

(2) purchase malt and vinous liquors from holders of brewer's permits, holders of brewpub licenses, or other wholesalers in the state;

(3) sell the malt and vinous liquors in the original containers in which they are received to retailers and wholesalers authorized to sell them in this state, including holders of local distributor's permits, mixed beverage permits, and daily temporary mixed beverage permits;

(4) sell the malt and vinous liquors to qualified persons outside the state; and

(5) sell ale and malt liquor to a holder of a private club registration permit.

(b) Effective September 1, 2021, Section 20.01, Alcoholic Beverage Code, is amended to read as follows:

Sec. 20.01. AUTHORIZED ACTIVITIES. The holder of a general class B wholesaler's permit may:

(1) purchase and import [~~malt and~~] vinous liquors from [~~brewers,~~] wineries, rectifiers, and wine manufacturers [~~and wine bottlers~~] who are the holders of nonresident seller's permits or their agents [~~who are holders of manufacturer's agent permits~~];

(2) purchase [~~malt and~~] vinous liquors from [~~holders of brewer's permits, holders of brewpub licenses, or other~~] wholesalers in the state;

SENATE VERSION (IE)

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- (3) sell the [~~malt and~~] vinous liquors in the original containers in which they are received to retailers and wholesalers authorized to sell them in this state, including holders of local distributor's permits, mixed beverage permits, and certain nonprofit entity [daily] temporary event [mixed beverage] permits; and
- (4) sell the [~~malt and~~] vinous liquors to qualified persons outside the state[; ~~and~~
- ~~[(5) sell ale and malt liquor to a holder of a private club registration permit].~~

SECTION 76. Chapter 20, Alcoholic Beverage Code, is amended by adding Section 20.04 to read as follows:

Sec. 20.04. TRANSPORTING LIQUOR. (a) The holder of a general class B wholesaler's permit may transport liquor, if the transportation is for a lawful purpose, from:

(1) the place of purchase to the holder's place of business; and

(2) the place of sale or distribution to the purchaser.

(b) The holder of a general class B wholesaler's permit may transport liquor from one wet area to another wet area across a dry area if that course of transportation is necessary or convenient.

(c) The holder of a general class B wholesaler's permit transporting liquor under this section shall provide to the commission:

(1) a full description of each motor vehicle used by the permit holder for transporting liquor; and

(2) any other information the commission requires.

(d) The holder of a general class B wholesaler's permit may transport liquor only in a vehicle that is:

SENATE VERSION (IE)

SECTION 77. Same as House version.

CONFERENCE

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- (1) described by Subsection (c)(1);
- (2) owned or leased in good faith by the permit holder or by the permit holder's agent; and
- (3) printed or painted with the designation required by the commission.

SECTION 77. Chapter 20, Alcoholic Beverage Code, is amended by adding Section 20.05 to read as follows:

Sec. 20.05. STORAGE. (a) The holder of a general class B wholesaler's permit may store liquor:

- (1) on the permitted premises; or
- (2) inside the county in which the permittee's business is located in a:
 - (A) public bonded warehouse authorized to store liquor under Chapter 46; or
 - (B) private warehouse that is:
 - (i) owned or leased by the permit holder; and
 - (ii) operated by the permit holder.
- (b) The holder of a general class B wholesaler's permit may not store liquor in a dry area.

SECTION 78. Section 22.01, Alcoholic Beverage Code, is amended to read as follows:

Sec. 22.01. AUTHORIZED ACTIVITIES. The holder of a package store permit may:

- (1) purchase liquor in this state from the holder of a winery, wholesaler's, or class B wholesaler's[~~,- or wine bottler's~~] permit;
- (2) purchase malt beverages in this state from the holder of a general or branch distributor's license;

SENATE VERSION (IE)

SECTION 78. Same as House version.

SECTION 79. Same as House version.

CONFERENCE

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(3) sell liquor and malt beverages in unbroken original containers on or from the holder's ~~[his]~~ licensed premises at retail to consumers for off-premises consumption only and not for the purpose of resale, except that if the permittee is a hotel, the permittee may deliver unbroken packages of liquor and malt beverages to bona fide guests of the hotel in their rooms for consumption in their rooms;

(4) ~~[(3)]~~ sell ~~[malt and]~~ vinous liquors in original containers of not less than six ounces; and

(5) ~~[(4)]~~ sell liquor to holders of passenger transportation ~~[airline beverage]~~ permits as provided in Section 48.03 ~~[34.05 of this code]~~.

SECTION 79. Section 22.03, Alcoholic Beverage Code, is amended to read as follows:

Sec. 22.03. DELIVERIES TO CUSTOMERS. (a) The holder of a package store permit or wine only package store permit issued for a location within a city or town or within two miles of the corporate limits of a city or town ~~[-who also holds a local cartage permit,]~~ may make deliveries of and collections for alcoholic beverages off the premises in areas where the sale of the beverages is legal. The permittee must travel by the most direct route and may make deliveries and collections only within the county or the city or town or within two miles of its corporate limits, and only in response to bona fide orders placed by the customer, either in person at the premises, in writing, by mail, or by telegraph or telephone. This section shall not be construed as preventing a holder of a package store permit or wine only package store permit from delivering alcoholic beverages to the holder of a carrier's permit for transportation to persons who have

SENATE VERSION (IE)

SECTION 80. Same as House version.

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placed bona fide orders and who are located in an area that the holder of a package store permit or wine only package store permit~~[, who also holds a local cartage permit,]~~ is authorized to directly deliver to under this section. The holder of a package store permit or wine only package store permit may also deliver alcoholic beverages to the holder of a carrier's permit for transportation outside of this state in response to bona fide orders placed by persons authorized to purchase the beverages.

(b) The holder of a package store permit ~~[who also holds a local cartage permit]~~ may transport alcoholic beverages to a commercial airline in a regional airport located all or partly in an adjoining county if the airport is governed by a board, commission, or authority, some of whose members reside in the county where the package store is located.

No equivalent provision.

SENATE VERSION (IE)

SECTION __. Effective September 1, 2019, Sections 22.04(a) and (c), Alcoholic Beverage Code, are amended to read as follows:

(a) A ~~[No]~~ person may not hold or have an interest, directly or indirectly, in more than 250 ~~[five]~~ package stores or in their business or permit.

(c) Except as provided by Section 22.041, the ~~[The limitations prescribed in this section do not apply to an original or renewal package store permit issued before May 1, 1949, and in effect on that date. The]~~ commission may not issue ~~[or administrator shall renew each permit of that type on proper application if the applicant is otherwise qualified. If a person who holds or has an interest in]~~ more than 15 original ~~[five]~~ package store permits to a person in a calendar year ~~[under the authority of this subsection has one~~

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~~of the permits cancelled, voluntarily or for cause, he may not obtain an additional permit in lieu of the cancelled permit. No person who has more than five package store permits may place any of the permits in suspense with the commission]. [FA4]~~

No equivalent provision.

SECTION __. Effective September 1, 2019, Chapter 22, Alcoholic Beverage Code, is amended by adding Section 22.041 to read as follows:

Sec. 22.041. ACQUISITION OF EXISTING PACKAGE STORE BUSINESS. (a) The commission may issue an original package store permit to a person for an existing package store business if:

(1) the person acquired by purchase or otherwise the existing package store business; and

(2) the existing package store business has been operating in the same county for more than one year before the date the person acquired the package store business.

(b) A package store permit issued under this section is not subject to the permit limit under Section 22.04(c). [FA4]

No equivalent provision.

SECTION __. Effective September 1, 2019, Section 22.05, Alcoholic Beverage Code, is amended to read as follows:

Sec. 22.05. TRANSFER [CONSOLIDATION] OF PERMITS. The holder of a package store permit may not transfer the permit [If one person or two or more persons related within the first degree of consanguinity have a majority of the ownership in two or more legal entities holding package store permits, they may consolidate the package store businesses into a single legal entity. That

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~~single legal entity may then be issued permits for all the package stores, notwithstanding any other provision of this code. After the consolidation, none of the permits may be transferred] to another county. [FA4]~~

SECTION 80. Section 22.06(a), Alcoholic Beverage Code, is amended to read as follows:

(a) Except as otherwise provided in Section 102.05 ~~[of this code and in Subsection (b) of this section]~~, no person who holds a package store permit or owns an interest in a package store may have a direct or indirect interest in any of the following:

- (1) a brewer's ~~[manufacturer's]~~, retail dealer's on-premise, or general or[.] branch~~[, or local]~~ distributor's license;
- (2) a wine and malt beverage ~~[beer]~~ retailer's, wine and malt beverage ~~[beer]~~ retailer's off-premise, or mixed beverage permit; or
- (3) the business of any of the permits or licenses listed in Subdivisions (1) and (2) of this subsection.

SECTION 81. Same as House version.

SECTION 81. Section 22.08, Alcoholic Beverage Code, is amended to read as follows:

Sec. 22.08. TRANSFER OF BEVERAGES. (a) The owner of more than one package store ~~[who is also the holder of a local cartage permit]~~ may transfer alcoholic beverages between any of the owner's ~~[his]~~ licensed premises in the same county between the hours of 7 a.m. and 9 p.m. on any day when the sale of those beverages is legal, subject to rules prescribed by the commission.

SECTION 82. Same as House version.

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(b) The holder of a package store permit may not transport alcoholic beverages under Subsection (a) unless:

(1) the permit holder provides the commission with a description, as required by the commission, of each motor vehicle used by the permit holder to transport alcoholic beverages; and

(2) each motor vehicle is plainly marked or lettered to indicate that it is being used by the permit holder to transport alcoholic beverages.

(c) When transporting alcoholic beverages under this section, the holder of a package store permit may not violate the motor carrier laws of this state.

SECTION 82. Section 22.10, Alcoholic Beverage Code, is amended to read as follows:

Sec. 22.10. OPENING CONTAINERS PROHIBITED. Except as authorized under Section 22.18 [~~52.01 of this code~~], a ~~[no]~~ person may not break or open a container containing liquor or a malt beverage [~~beer~~] or possess an opened container of liquor or a malt beverage [~~beer~~] on the premises of a package store.

SECTION 83. Section 22.11, Alcoholic Beverage Code, is amended to read as follows:

Sec. 22.11. CONSUMPTION ON PREMISES PROHIBITED. Except as authorized under Section 22.18 [~~52.01~~], a ~~[no]~~ person may not sell, barter, exchange, deliver, or give away any drink or drinks of alcoholic beverages from a container that has been opened or broken on the premises of a package store.

SENATE VERSION (IE)

SECTION 83. Same as House version.

SECTION 84. Same as House version.

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SECTION 84. Chapter 22, Alcoholic Beverage Code, is amended by adding Section 22.18 to read as follows:

Sec. 22.18. TASTINGS. (a) The holder of a package store permit may conduct product tastings of distilled spirits, wine, malt beverages, or spirit-based coolers on the permitted premises during regular business hours as provided by this section.

(b) Written notification of a product tasting must be posted on the premises of the package store permit holder not later than 48 hours before the tasting event. The notification shall clearly state:

- (1) the type and brand of alcoholic beverage to be tasted;
- (2) the date and hours the tasting is to take place; and
- (3) the address of the premises where the tasting is to occur.

(c) A copy of the notification shall be kept on file and available for inspection on the premises during all tasting hours.

(d) Sample portions at a product tasting shall be limited to not more than:

- (1) one-half ounce for distilled spirits;
- (2) one ounce for wine; and
- (3) one ounce for malt beverages and coolers.

(e) Not more than 20 different products may be made available for tasting at any one time.

(f) No charge of any sort may be made for a sample serving.

(g) A person may be served more than one sample. Samples may not be served to a minor or to an obviously intoxicated person. A sample may not be removed from the permitted premises.

SENATE VERSION (IE)

SECTION 85. Same as House version.

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(h) During the tasting, not more than two containers of each brand or type of product being tasted may be open on the premises at one time.

(i) At the conclusion of the tasting, all empty or open containers of alcoholic beverages used in the tasting shall be removed from the premises or stored in a locked, secure area on the permitted premises.

(j) A tasting event authorized by this section may not be advertised except by on-site communications, by direct mail, by electronic mail, or on the permit holder's Internet website.

(k) Except as provided by Subsection (l) or elsewhere in this code, a person other than the package store permittee or the permittee's agent or employee may not dispense or participate in the dispensing of alcoholic beverages under this section.

(l) The holder of a distiller's or rectifier's permit or nonresident seller's permit or that permit holder's agent or employee may participate in and conduct product tastings of alcoholic beverages at a retailer's premises and may open, touch, or pour alcoholic beverages, make a presentation, or answer questions at the tasting. Any alcoholic beverage tasted under this subsection must be purchased from the package store permit holder on whose premises the tasting is held. The permit holder may not require the purchase of more alcoholic beverages than are necessary for the tasting. This section does not authorize the holder of a distiller's or rectifier's permit or nonresident seller's permit or that permit holder's agent or employee to withdraw or purchase an alcoholic beverage from the holder of a wholesaler's permit or provide an alcoholic beverage for tasting on a retailer's premises that is not purchased from the retailer.

SENATE VERSION (IE)

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(m) For the purposes of this code and any other law or ordinance:

(1) a package store permit does not authorize the sale of alcoholic beverages for on-premise consumption; and

(2) none of the permit holder's income may be considered to be income from the sale of alcoholic beverages for on-premise consumption.

SECTION 85. Section 23.01, Alcoholic Beverage Code, is amended to read as follows:

Sec. 23.01. AUTHORIZED ACTIVITIES. (a) The holder of a local distributor's permit may:

(1) purchase alcoholic beverages, including malt beverages, from wholesalers and distributors authorized to sell them for resale, but may purchase only those brands available for general distribution to all local distributor's permittees;

(2) sell and distribute the alcoholic beverages, including malt beverages, to mixed beverage and private club registration permittees; ~~and~~

(3) sell and distribute distilled spirits to the holder of a nonprofit entity temporary event permit; and

(4) rent or sell to mixed beverage and private club registration permittees any equipment, fixtures, or supplies used in the selling or dispensing of distilled spirits.

(b) A local distributor's permittee may purchase liquor only from a wholesaler's[~~;~~] or general class B wholesaler's[~~;~~ ~~or~~ ~~local class B wholesaler's~~] permittee and may purchase only the types of liquor the particular wholesaler is authorized by the wholesaler's [his] permit to sell.

SENATE VERSION (IE)

SECTION 86. Same as House version.

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SECTION 86. Section 23.04, Alcoholic Beverage Code, is amended to read as follows:

Sec. 23.04. MAY TRANSFER BEVERAGES. (a) ~~The [If the] holder of a local distributor's permit [also holds a local cartage permit, he]~~ may transfer alcoholic beverages:

(1) to any place where the sale of alcoholic beverages is legal in the city or county where the permit holder's [his] premises are located; and

(2) to a regional airport located all or partly in an adjoining county if the airport is governed by a board, commission, or authority, some of whose members reside in the county where the local distributor's premises are located.

(b) The holder of a local distributor's permit may not transport alcoholic beverages under Subsection (a) unless:

(1) the permit holder provides the commission with a description, as required by the commission, of each motor vehicle used by the permit holder to transport alcoholic beverages; and

(2) each motor vehicle is plainly marked or lettered to indicate that it is being used by the permit holder to transport alcoholic beverages.

(c) When transporting alcoholic beverages under this section, the holder of a local distributor's permit may not violate the motor carrier laws of this state.

SECTION 87. Section 24.01(a), Alcoholic Beverage Code, is amended to read as follows:

(a) The holder of a wine only package store permit may:

(1) purchase ~~ale,~~ wine~~,~~ and vinous liquors in this state from the holder of a winery, ~~wine bottler's,~~ wholesaler's, or class B wholesaler's permit; ~~and~~

SENATE VERSION (IE)

SECTION 87. Same as House version.

CONFERENCE

SECTION 88. Same as House version.

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(2) purchase malt beverages from the holder of a general or branch distributor's license; and

(3) sell those beverages to consumers at retail on or from the licensed premises in unbroken original containers of not less than six ounces for off-premises consumption only and not for the purpose of resale.

SECTION 88. Section 24.04, Alcoholic Beverage Code, is amended to read as follows:

Sec. 24.04. DESIGNATION OF PLACE OF STORAGE; TRANSPORT OF BEVERAGES. (a) ~~The owner of more than one wine only package store [who is also the holder of a local cartage permit]~~ the permit holder may designate one of the permit holder's [his] places of business as a place of storage. The permit holder [He] may transfer alcoholic beverages to and from the [his] place of storage and the permit holder's [his] other stores in the same county, subject to rules prescribed by the commission.

(b) A wine only package store permit holder may not transport alcoholic beverages under Subsection (a) unless:

(1) the permit holder provides the commission with a description, as required by the commission, of each motor vehicle used by the permit holder to transport alcoholic beverages; and

(2) each motor vehicle is plainly marked or lettered to indicate that it is being used by the permit holder to transport alcoholic beverages.

(c) When transporting alcoholic beverages under this section, the holder of a wine only package store permit may not violate the motor carrier laws of this state.

SENATE VERSION (IE)

SECTION 89. Same as House version.

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SECTION 89. Section 24.05(c), Alcoholic Beverage Code, is amended to read as follows:

(c) A person may not hold a wine and malt beverage [beer] retailer's or wine and malt beverage [beer] retailer's off-premise permit at the same location where the person holds a wine only package store permit.

SECTION 90. (a) Effective September 1, 2019, Section 24.07, Alcoholic Beverage Code, is amended to read as follows:

Sec. 24.07. WHEN LICENSE ALSO HELD: HOURS OF SALE, ETC. A holder of a wine only package store permit who also holds a retail dealer's off-premise license for the same location may remain open and sell ale, wine, vinous liquors, and beer, for off-premises consumption only, on any day and during the same hours as those prescribed for the sale of beer under Section 105.05 [~~that the holder of a wine and beer retailer's permit may sell ale, beer, and wine~~], except that the permit holder [~~he~~] may not sell wine or vinous liquor containing more than 17 percent alcohol by volume on a Sunday or after 10 p.m. on any day.

(b) Effective September 1, 2021, Section 24.07, Alcoholic Beverage Code, is amended to read as follows:

Sec. 24.07. [~~WHEN LICENSE ALSO HELD:~~] HOURS OF SALE[, ETC]. A holder of a wine only package store permit [~~who also holds a retail dealer's off-premise license for the same location~~] may remain open and sell malt beverages [~~ale~~], wine, and vinous liquors, [~~and beer,~~] for off-premises consumption only, on any day and during the same hours as those prescribed for the sale of malt beverages under Section 105.05 [~~that the holder of a wine and beer retailer's permit~~

SENATE VERSION (IE)

SECTION 90. Same as House version.

SECTION 91. Section 24.07, Alcoholic Beverage Code, is amended to read as follows:

Sec. 24.07. [~~WHEN LICENSE ALSO HELD:~~] HOURS OF SALE[, ETC]. A holder of a wine only package store permit [~~who also holds a retail dealer's off-premise license for the same location~~] may remain open and sell malt beverages [~~ale~~], wine, and vinous liquors, [~~and beer,~~] for off-premises consumption only, on any day and during the same hours that the holder of a wine and malt beverage [beer] retailer's permit may sell malt beverages [~~ale, beer,~~] and wine, except

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~~may sell ale, beer, and wine~~], except that the permit holder ~~[he]~~ may not sell wine or vinous liquor containing more than 17 percent alcohol by volume on a Sunday or after 10 p.m. on any day.

SECTION 91. Section 24.09, Alcoholic Beverage Code, is amended to read as follows:

Sec. 24.09. OPENING CONTAINERS PROHIBITED. Except as provided by Section 24.12 ~~[52.04]~~, a person may not break or open a container of liquor or malt beverages ~~[beer]~~ or possess an opened container of liquor or malt beverages ~~[beer]~~ on the premises of a wine only package store.

SECTION 92. Section 24.10, Alcoholic Beverage Code, is amended to read as follows:

Sec. 24.10. BEVERAGE FROM OPENED CONTAINER. Except as provided by Section 24.12 ~~[52.04]~~, a person may not sell, barter, exchange, deliver, or give away a drink of alcoholic beverage from a container that has been opened or broken on the premises of a wine only package store.

SECTION 93. Section 24.12, Alcoholic Beverage Code, is amended to read as follows:

Sec. 24.12. WINE AND MALT BEVERAGES ~~[ALE]~~ SAMPLING. (a) The holder of a wine only package store permit may conduct free product samplings of wine or malt beverages ~~[ale]~~ on the permit holder's premises during regular business hours as provided by this section.

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that the permittee ~~[he]~~ may not sell wine or vinous liquor containing more than 17 percent alcohol by volume on a Sunday or after 10 p.m. on any day.

SECTION 92. Same as House version.

SECTION 93. Same as House version.

SECTION 94. Same as House version.

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(b) An agent or employee of the holder of a wine only package store permit may open, touch, or pour wine or malt beverages ~~[ale]~~, make a presentation, or answer questions at a sampling event.

(c) For the purposes of this code and any other law or ordinance:

(1) a wine only package store permit does not authorize the sale of alcoholic beverages for on-premise consumption; and

(2) none of the permit holder's income may be considered to be income from the sale of alcoholic beverages for on-premise consumption.

(d) Any wine or malt beverages ~~[ale]~~ used in a sampling event under this section must be purchased from or provided by the retailer on whose premises the sampling event is held. The retailer may not require the purchase of more alcoholic beverages than are necessary for the tasting. This section does not authorize the holder of a nonresident seller's permit or that permit holder's agent or employee to withdraw or purchase an alcoholic beverage from the holder of a wholesaler's permit or provide an alcoholic beverage for tasting on a retailer's premises that is not purchased from the retailer.

(e) When a sampling event under this section is held on the premises of a wine only package store permit located in an area which is wet for the sale of wine but which is not wet for the sale of higher alcohol content wines that may be sold under an unrestricted wine only package store permit, the only wines that may be sampled are wines which may be legally sold by the wine only package store permittee as restricted under Section 251.81.

(f) Written notification of a product tasting must be posted on the premises of the wine only package store permit holder

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not later than 48 hours before the tasting event. The notification shall clearly state:

(1) the type and brand of alcoholic beverage to be tasted;

(2) the date and hours the tasting is to take place; and

(3) the address of the premises where the tasting is to occur.

(g) A copy of the notification shall be kept on file and available for inspection on the premises during all tasting hours.

(h) Sample portions at a product tasting shall be limited to no more than:

(1) one ounce for wine; and

(2) one ounce for malt beverages and coolers.

(i) Not more than 20 different products may be made available for tasting at any one time.

(j) No charge of any sort may be made for a sample serving.

(k) A person may be served more than one sample. Samples may not be served to a minor or to an obviously intoxicated person. A sample may not be removed from the permitted premises.

(l) During the tasting, not more than two containers of each brand or type of product being tasted may be open on the premises at one time.

(m) At the conclusion of the tasting, all empty or open containers of alcoholic beverages used in the tasting shall be removed from the premises or stored in a locked, secure area on the permitted premises.

(n) A tasting event authorized by this section may not be advertised except by on-site communications, by direct mail, by electronic mail, or on the permit holder's Internet website.

(o) Except as provided by Subsection (p) or elsewhere in this code, a person other than the wine only package store permittee or the permittee's agent or employee may not

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dispense or participate in the dispensing of alcoholic beverages under this section.

(p) The holder of a nonresident seller's permit or that permit holder's agent or employee may participate in and conduct product tastings of alcoholic beverages at a retailer's premises and may open, touch, or pour alcoholic beverages, make a presentation, or answer questions at the tasting.

SECTION 94. The heading to Chapter 25, Alcoholic Beverage Code, is amended to read as follows:

CHAPTER 25. WINE AND MALT BEVERAGE [~~BEER~~]
RETAILER'S PERMIT

SECTION 95. Section 25.01, Alcoholic Beverage Code, is amended to read as follows:

Sec. 25.01. AUTHORIZED ACTIVITIES. The holder of a wine and malt beverage [~~beer~~] retailer's permit may sell:

- (1) for consumption on or off the premises where sold, but not for resale, wine[~~, beer,~~] and malt beverages [~~liquors~~] containing alcohol in excess of one-half of one percent by volume and not more than 17 percent by volume; and
- (2) for consumption on the premises traditional port or sherry containing alcohol in excess of one-half of one percent by volume and not more than 24 percent by volume.

SECTION 96. Effective September 1, 2019, the heading to Section 25.03, Alcoholic Beverage Code, is amended to read as follows:

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SECTION 95. Same as House version.

SECTION 96. Same as House version.

SECTION 97. Same as House version.

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Sec. 25.03. [~~RAILWAY CARS AND~~] EXCURSION BOATS: PERMITS, FEES.

SECTION 97. Effective September 1, 2019, Sections 25.03(c) and (d), Alcoholic Beverage Code, are amended to read as follows:

(c) Application for a permit for [~~a railway car or~~] an excursion boat and payment of the required fee shall be made directly to the commission.

(d) A permit for [~~a railway car or~~] an excursion boat is inoperative in a dry area.

SECTION 98. (a) Effective December 31, 2020, Section 25.04(a), Alcoholic Beverage Code, is amended to read as follows:

(a) A wine and beer retailer's permit is issued by the commission [~~or administrator~~]. The qualification of applicants and the application for and issuance of the permit are governed by the same provisions which apply to the application for and issuance of a retail dealer's on-premise license.

(b) Effective September 1, 2021, Section 25.04, Alcoholic Beverage Code, is amended to read as follows:

Sec. 25.04. ISSUANCE, CANCELLATION, AND SUSPENSION OF PERMIT. (a) A wine and malt beverage [~~beer~~] retailer's permit is issued by the commission [~~or administrator~~]. The qualification of applicants and the application for and issuance of the permit are governed by the same provisions which apply to the application for and issuance of a retail dealer's on-premise license.

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SECTION 98. Same as House version.

SECTION 99. Same as House version.

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(b) The provisions of this code applicable to the cancellation and suspension of a retail dealer's on-premise license also apply to the cancellation and suspension of a wine and malt beverage ~~[beer]~~ retailer's permit.

SECTION 99. (a) Effective December 31, 2020, Section 25.05(a), Alcoholic Beverage Code, is amended to read as follows:

(a) On receipt of an original application for a wine and beer retailer's permit, the commission ~~[county judge]~~ shall give notice of all hearings before the commission ~~[him]~~ concerning the application to ~~[the commission,]~~ the sheriff[;] and the chief of police of the incorporated city in which, or nearest which, the premises for which the permit is sought are located.

(b) Effective September 1, 2021, Section 25.05(a), Alcoholic Beverage Code, is amended to read as follows:

(a) On receipt of an original application for a wine and malt beverage ~~[beer]~~ retailer's permit, the commission ~~[county judge]~~ shall give notice of all hearings before the commission ~~[him]~~ concerning the application to ~~[the commission,]~~ the sheriff[;] and the chief of police of the incorporated city in which, or nearest which, the premises for which the permit is sought are located.

SECTION 100. (a) Effective December 31, 2020, Sections 25.06(a), (b), and (c), Alcoholic Beverage Code, are amended to read as follows:

(a) The commission ~~[county judge]~~ shall deny an original application for a wine and beer retailer's permit if the

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SECTION 100. Same as House version.

SECTION 101. Same as House version.

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commission [~~he~~] finds that the applicant, or the applicant's spouse, during the five years immediately preceding the application, was finally convicted of a felony or one of the following offenses:

- (1) prostitution;
- (2) a vagrancy offense involving moral turpitude;
- (3) bookmaking;
- (4) gambling or gaming;
- (5) an offense involving controlled substances as defined in Chapter 481, Health and Safety Code, or other dangerous drugs;
- (6) a violation of this code resulting in the cancellation of a license or permit, or a fine of not less than \$500;
- (7) more than three violations of this code relating to minors;
- (8) bootlegging; or
- (9) an offense involving firearms or a deadly weapon.

(b) The commission [~~county judge~~] shall also deny an original application for a permit if the commission [~~he~~] finds that five years have not elapsed since the termination of a sentence, parole, or probation served by the applicant or the applicant's spouse because of a felony conviction or conviction of any of the offenses described in Subsection (a) [~~of this section~~].

(c) The commission shall deny an application for [~~refuse to issue~~] a renewal of a wine and [~~or~~] beer retailer's permit if the commission [~~it~~] finds:

- (1) that the applicant, or the applicant's spouse, has been convicted of a felony or one of the offenses listed in Subsection (a) [~~of this section~~] at any time during the five years immediately preceding the filing of the application for renewal; or

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(2) that five years have not elapsed since the termination of a sentence, parole, or probation served by the applicant, or the applicant's spouse, of a felony conviction or conviction of any of the offenses described in Subsection (a) [~~of this section~~].

(b) Effective September 1, 2021, Sections 25.06(a) and (c), Alcoholic Beverage Code, are amended to read as follows:

(a) The commission [~~county judge~~] shall deny an original application for a wine and malt beverage [~~beer~~] retailer's permit if the commission [~~he~~] finds that the applicant, or the applicant's spouse, during the five years immediately preceding the application, was finally convicted of a felony or one of the following offenses:

- (1) prostitution;
- (2) a vagrancy offense involving moral turpitude;
- (3) bookmaking;
- (4) gambling or gaming;
- (5) an offense involving controlled substances as defined in Chapter 481, Health and Safety Code, or other dangerous drugs;
- (6) a violation of this code resulting in the cancellation of a license or permit, or a fine of not less than \$500;
- (7) more than three violations of this code relating to minors;
- (8) bootlegging; or
- (9) an offense involving firearms or a deadly weapon.

(c) The commission shall deny an application for [~~refuse to issue~~] a renewal of a wine and malt beverage [~~or beer~~] retailer's permit if the commission [~~it~~] finds:

- (1) that the applicant, or the applicant's spouse, has been convicted of a felony or one of the offenses listed in Subsection (a) [~~of this section~~] at any time during the five

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years immediately preceding the filing of the application for renewal; or

(2) that five years have not elapsed since the termination of a sentence, parole, or probation served by the applicant, or the applicant's spouse, of a felony conviction or conviction of any of the offenses described in Subsection (a) [~~of this section~~].

SECTION 101. Section 25.09, Alcoholic Beverage Code, is amended to read as follows:

Sec. 25.09. POSSESSION OF CERTAIN BEVERAGES PROHIBITED. (a) Except as provided by this section, a wine and malt beverage [~~beer~~] retailer's permittee or an officer of the permittee may not possess distilled spirits or liquor containing alcohol in excess of 17 percent by volume on the licensed premises.

(b) The commission by rule may allow a wine and malt beverage [~~beer~~] retailer's permittee or the permittee's officer to possess and use alcoholic beverages in excess of 17 percent by volume on the licensed premises for cooking purposes.

SECTION 102. Section 25.10, Alcoholic Beverage Code, is amended to read as follows:

Sec. 25.10. APPLICATION OF OTHER CODE PROVISIONS. Sections 61.78, 61.81, 61.82, and 61.84 [~~of this code~~] also apply to a wine and malt beverage [~~beer~~] retailer's permit. The restrictions in this code relating to malt beverages [~~beer~~] as to the application of local restrictions, sales to minors and intoxicated persons, age of employees,

SENATE VERSION (IE)

SECTION 102. Same as House version.

SECTION 103. Same as House version.

CONFERENCE

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and the use of blinds or barriers apply to the sale of alcoholic beverages by a wine and malt beverage [~~beer~~] retailer's permittee.

SECTION 103. Section 25.11, Alcoholic Beverage Code, is amended to read as follows:

Sec. 25.11. SEATING AREA REQUIRED. A wine and malt beverage [~~beer~~] retailer's permittee must have an area designated on the premises for the permittee's customers to sit if they wish to consume beverages sold by the permittee on the premises.

SECTION 104. Section 25.12(a), Alcoholic Beverage Code, is amended to read as follows:

(a) Notwithstanding any provision of this code to the contrary, the premises of a wine and malt beverage [~~beer~~] retailer's permittee who leases space in a food court includes the seating area that the permittee shares with the other lessees that occupy the food court.

SECTION 105. Sections 25.13(a), (a-1), and (d), Alcoholic Beverage Code, are amended to read as follows:

(a) In this section, "location" means the designated physical address of the wine and malt beverage [~~beer~~] retailer's permit and includes all areas at the address where the permit holder may sell or deliver alcoholic beverages for immediate consumption regardless of whether some of those areas are occupied by other businesses.

SENATE VERSION (IE)

SECTION 104. Same as House version.

SECTION 105. Same as House version.

SECTION 106. Same as House version.

CONFERENCE

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(a-1) A holder of a wine and malt beverage [~~beer~~] retailer's permit may be issued a food and beverage certificate by the commission if the commission finds that the receipts from the sale of alcoholic beverages by the permit holder at the location are 60 percent or less of the total receipts from the location.

(d) A certificate issued under this section expires on the expiration of the primary wine and malt beverage [~~beer~~] retailer's permit. A certificate may be canceled at any time, and the renewal of a certificate may be denied, if the commission finds that the holder of the certificate is in violation of Subsection (a-1) or (b) or a rule adopted under Subsection (b-1). On finding that the permittee knowingly operated under a food and beverage certificate while not complying with this section or a rule adopted under Subsection (b-1), the commission may cancel or deny the renewal of the permittee's wine and malt beverage [~~beer~~] retailer's permit. The holder of a wine and malt beverage [~~beer~~] retailer's permit whose certificate has been canceled or who is denied renewal of a certificate under this subsection may not apply for a new certificate until the day after the first anniversary of the date the certificate was canceled or the renewal of the certificate was denied.

SECTION 106. Section 25.14(a), Alcoholic Beverage Code, is amended to read as follows:

(a) Notwithstanding any other provision of this code, a permit under this chapter may be issued for a premises in an area in which the voters have approved the following alcoholic beverage ballot issues in a local option election:

SENATE VERSION (IE)

SECTION 107. Same as House version.

CONFERENCE

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(1) "The legal sale of malt beverages [~~beer~~] and wine for off-premise consumption only."; and

(2) either:

(A) "The legal sale of mixed beverages."; or

(B) "The legal sale of mixed beverages in restaurants by food and beverage certificate holders only."

SECTION 107. Chapter 25, Alcoholic Beverage Code, is amended by adding Section 25.15 to read as follows:

Sec. 25.15. SALES AT TEMPORARY LOCATION. (a)

The holder of a wine and malt beverage retailer's permit may temporarily at a location other than the permit holder's premises sell for consumption on or off the premises where sold, but not for resale, wine and malt beverages containing alcohol in excess of one-half of one percent by volume but not more than 17 percent by volume at a picnic, celebration, or similar event.

(b) The holder of a wine and malt beverage retailer's permit may temporarily sell wine and malt beverages for not more than four consecutive days at the same location under Subsection (a) and not more than five consecutive days at an event under Subsection (d) or six days if necessary to accommodate the postponement of scheduled racing events due to an act of nature.

(c) The commission shall adopt rules to implement this section, including rules that:

(1) require the permit holder to notify the commission of the dates on which and location where the permit holder will temporarily offer wine and malt beverages for sale under this section;

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SECTION 108. Same as House version.

CONFERENCE

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(2) establish a procedure to verify the wet or dry status of the location where the permit holder intends to temporarily sell wine and malt beverages under this section;

(3) detail the circumstances when a permit holder may temporarily sell wine and malt beverages under this section with only a notification to the commission and the circumstances that require the commission's preapproval before a permit holder may temporarily sell wine and malt beverages under this section;

(4) establish the length of time a permit holder may sell wine and malt beverages under this section at the same location; and

(5) require the permit holder to provide any other information the commission determines necessary.

(d) The holder of a wine and malt beverage retailer's permit may temporarily sell wine and malt beverages in an area of a facility with a seating capacity of more than 150,000 that is open to the public and not otherwise covered by a license or permit during a motor vehicle racing event sponsored by a professional motor racing association.

(e) The holder of a wine and malt beverage retailer's permit who temporarily sells wine and malt beverages under Subsection (d) may not:

(1) sell under this section at the facility more than four times in a calendar year;

(2) sell alcoholic beverages in factory-sealed containers;

(3) sell more than two drinks to a single consumer at one time;

(4) sell alcoholic beverages at more than 50 percent of the food and beverage concession stands that are open for business at any one time; and

(5) sell alcoholic beverages after:

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(A) 75 percent of the feature race is complete on the day that race is held; and

(B) one hour before the scheduled completion of the last spectator event on a day other than the feature race day.

(f) A holder of a wine and malt beverage retailer's permit that sells wine or malt beverages under that permit in a county other than the county in which the premises covered by the permit is located must:

(1) purchase the beverages from a distributor or wholesaler authorized under this code to sell the beverages in the county in which the permit holder sells the beverages under this section; and

(2) report to the commission, in the manner prescribed by the commission by rule, the amount of beverages purchased and sold under this section, by type.

SECTION 108. The heading to Chapter 26, Alcoholic Beverage Code, is amended to read as follows:

CHAPTER 26. WINE AND MALT BEVERAGE [~~BEER~~]
RETAILER'S OFF-PREMISE PERMIT

SECTION 109. Section 26.01, Alcoholic Beverage Code, is amended to read as follows:

Sec. 26.01. AUTHORIZED ACTIVITIES. (a) The holder of a wine and malt beverage [~~beer~~] retailer's off-premise permit may sell for off-premises consumption only, in unbroken original containers, but not for resale, wine[, ~~beer,~~] and malt beverages [~~liquors~~] containing alcohol in excess of one-half of one percent by volume but not more than 17 percent by volume.

SENATE VERSION (IE)

SECTION 109. Same as House version.

SECTION 110. Same as House version.

CONFERENCE

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(b) The holder of a wine and malt beverage [~~beer~~] retailer's off-premise permit may conduct free product samplings of wine[, ~~beer,~~] and malt beverages [~~liquor~~] containing alcohol in excess of one-half of one percent by volume but not more than 17 percent by volume on the permit holder's premises during regular business hours as provided by Section 26.08.

SECTION 110. (a) Effective December 31, 2020, Section 26.03(a), Alcoholic Beverage Code, is amended to read as follows:

(a) A wine and beer retailer's off-premise permit is issued by the commission [~~or administrator~~]. The qualifications of applicants and the application for and issuance of the permit are governed by the same provisions which apply to the application for and issuance of a retail dealer's off-premise license.

(b) Effective September 1, 2021, Section 26.03, Alcoholic Beverage Code, is amended to read as follows:

Sec. 26.03. ISSUANCE, CANCELLATION, AND SUSPENSION OF PERMIT. (a) A wine and malt beverage [~~beer~~] retailer's off-premise permit is issued by the commission [~~or administrator~~]. The qualifications of applicants and the application for and issuance of the permit are governed by the same provisions which apply to the application for and issuance of a retail dealer's off-premise license.

(b) The provisions of this code applicable to the cancellation and suspension of a retail dealer's off-premise license also apply to the cancellation and suspension of a wine and malt beverage [~~beer~~] retailer's off-premise permit.

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SECTION 111. Same as House version.

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SECTION 111. Section 26.04, Alcoholic Beverage Code, is amended to read as follows:

Sec. 26.04. APPLICATION OF OTHER CODE PROVISIONS. Sections 61.78, 61.81, 61.82, and 61.84 [~~of this code~~] also apply to a wine and malt beverage [~~beer~~] retailer's off-premise permit. The restrictions in this code relating to malt beverages [~~beer~~] as to the application of local restrictions, sales to minors and intoxicated persons, and age of employees apply to the sale of alcoholic beverages by a wine and malt beverage [~~beer~~] retailer's off-premise permittee.

SECTION 112. Section 26.05(a), Alcoholic Beverage Code, is amended to read as follows:

(a) Each holder of a wine and malt beverage [~~beer~~] retailer's off-premise permit shall display in a prominent place on the permittee's [~~his~~] premises a sign stating in letters at least two inches high: IT IS A CRIME (MISDEMEANOR) TO CONSUME LIQUOR OR MALT BEVERAGES [~~BEER~~] ON THESE PREMISES. The commission or administrator may require the holder of the permit to also display the sign in a language other than English if it can be observed or determined that a substantial portion of the expected customers speak the other language as their familiar language.

SECTION 113. Section 26.08, Alcoholic Beverage Code, is amended to read as follows:

Sec. 26.08. SAMPLING EVENT. (a) An employee of the holder of a wine and malt beverage [~~beer~~] retailer's off-

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SECTION 112. Same as House version.

SECTION 113. Same as House version.

SECTION 114. Same as House version.

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premise permit may open, touch, or pour wine[,~~beer,~~] or malt beverages [~~liquor~~], make a presentation, or answer questions at a sampling event.

(b) For purposes of this code and any other law or ordinance:

(1) a wine and malt beverage [~~beer~~] retailer's off-premise permit does not authorize the sale of alcoholic beverages for on-premises consumption; and

(2) none of the permit holder's income may be considered to be income from the sale of alcoholic beverages for on-premises consumption.

(c) Any wine[,~~beer,~~] or malt beverages [~~liquor~~] used in a sampling event under this section must be purchased from or provided by the retailer on whose premises the sampling event is held. This section does not authorize the holder of a wine and malt beverage [~~beer~~] retailer's off-premise permit to withdraw or purchase alcoholic beverages from the holder of a wholesaler's permit or a distributor's license or provide alcoholic beverages for a sampling on a retailer's premises that is not purchased from the retailer. The amount of alcoholic beverages purchased from the retailer may not exceed the amount of alcoholic beverages used in the sampling event.

SECTION 114. Sections 28.01(b) and (c), Alcoholic Beverage Code, are amended to read as follows:

(b) The holder of a mixed beverage permit for an establishment in a hotel may deliver mixed beverages, including wine and malt beverages [~~beer~~], to individual rooms of the hotel or to any other location in the hotel building or grounds, except a parking area or the licensed premises of another alcoholic beverage establishment,

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SECTION 115. Same as House version.

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without regard to whether the place of delivery is part of the licensed premises. A permittee in a hotel may allow a patron or visitor to enter or leave the licensed premises, even though the patron or visitor possesses an alcoholic beverage, if the beverage is in an open container and appears to be possessed for present consumption.

(c) The holder of a mixed beverage permit may also:

(1) purchase wine[~~-, beer, ale,~~] and malt beverages [~~liquor~~] containing alcohol of not more than 21 percent by volume in containers of any legal size from any permittee or licensee authorized to sell those beverages for resale; and

(2) sell the wine[~~-, beer, ale,~~] and malt beverages [~~liquor~~] for consumption on the licensed premises.

SECTION 115. Section 28.07, Alcoholic Beverage Code, is amended by amending Subsections (b) and (c) and adding Subsection (d) to read as follows:

(b) If a holder of a mixed beverage permit is in a county where there are no local distributors, the permit holder [~~he~~] may purchase alcoholic beverages in the nearest county where local distributors are located and may transport them to the permit holder's [~~his~~] premises [~~provided that he is also a holder of a beverage cartage permit~~]. The transporter may acquire the alcoholic beverages only on the written order of the holder of the mixed beverage permit. The alcoholic beverages must be accompanied by a written statement furnished and signed by the local distributor showing the name and address of the consignee and consignor, the origin and destination of the shipment, and any other information required by the commission or administrator. The person in charge of the alcoholic beverages while they are being

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SECTION 116. Same as House version.

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transported shall exhibit the written statement to any representative of the commission or any peace officer on demand, and the statement shall be accepted by the representative or officer as prima facie evidence of the lawful right to transport the alcoholic beverages.

(c) If a mixed beverage permittee's [~~permittee holds a beverage cartage permit and his~~] premises are located in a regional airport governed by a board, commission, or authority composed of members from two or more counties, and there is no local distributor at the airport, the mixed beverage permittee may purchase alcoholic beverages from any local distributor in a trade area served by the airport and transport the alcoholic beverages [~~them~~] to the permit holder's [~~his~~] licensed premises. The transportation of the beverages must be in accordance with Subsection (b) [~~of this section~~].

(d) The holder of a mixed beverage permit may transfer alcoholic beverages from the place of purchase to the permitted premises as provided in this code.

SECTION 116. Section 28.10(b), Alcoholic Beverage Code, is amended to read as follows:

(b) A mixed beverage permittee may not permit any person to take any alcoholic beverage purchased on the licensed premises from the premises where sold, except that:

(1) a person who orders wine with food and has a portion of the open container remaining may remove the open container of wine from the premises; and

(2) a mixed beverage permittee who also holds a brewpub license may sell or offer without charge on the premises of the brewpub, to an ultimate consumer for consumption on or

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SECTION 117. Same as House version.

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off the premises, malt beverages [~~liquor, ale, or beer~~] produced by the permittee, in or from a lawful container in an amount that does not exceed one-half barrel, provided that the aggregate amount of malt beverages [~~liquor, ale, and beer~~] removed from the premises under this subdivision does not exceed 1,000 barrels annually.

SECTION 117. Chapter 28, Alcoholic Beverage Code, is amended by adding Section 28.19 to read as follows:

Sec. 28.19. SALES AT TEMPORARY LOCATION. (a) The holder of a mixed beverage permit may temporarily sell authorized alcoholic beverages at:

- (1) a picnic, celebration, or similar event; or
- (2) a place other than the premises for which the holder's mixed beverage permit is issued only in:
 - (A) an area where the sale of mixed beverages has been authorized by a local option election; or
 - (B) an area that:
 - (i) is adjacent to a county with a home-rule municipality with a population of more than 350,000;
 - (a) that has in its charter a provision allowing for limited purpose annexation for zoning;
 - (b) that has previously disannexed territory annexed for limited purposes; and
 - (c) that allows the sale of mixed beverages;
 - (ii) does not comprise an entire county; and
 - (iii) is not within the corporate limits of a municipality.
- (b) Distilled spirits sold at a temporary location under this section must be purchased from the holder of a local distributor's permit.

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SECTION 118. Same as House version.

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(c) The commission shall adopt rules to implement this section, including rules that:

(1) require the permit holder to notify the commission of the dates on which and location where the permit holder will temporarily offer alcoholic beverages for sale under this section;

(2) establish a procedure to verify the wet or dry status of the location where the permit holder intends to temporarily sell alcoholic beverages under this section;

(3) detail the circumstances when a permit holder may temporarily sell alcoholic beverages under this section with only a notification to the commission and the circumstances that require the commission's preapproval before a permit holder may temporarily sell alcoholic beverages under this section;

(4) establish the length of time a permit holder may sell alcoholic beverages under this section at the same location; and

(5) require the permit holder to provide any other information the commission determines necessary.

(d) Notwithstanding any other law, the temporary sale of alcoholic beverages by a mixed beverage permit holder under this section in an area located on property owned by a municipality that contains a municipally owned conference center and that borders a lake may permit a patron to leave the area, even though the patron possesses an alcoholic beverage, if:

(1) the beverage is in an open container and appears to be possessed for present consumption; and

(2) the public consumption of alcoholic beverages or possession of an open container of an alcoholic beverage is

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not prohibited on the municipally owned property where the area is located.

(e) Subsection (d) applies only to a mixed beverage permit holder operating under this section in an area in a municipality that:

(1) has a population of less than 15,000;

(2) is located in a county with a population of less than 65,000; and

(3) contains a historic preservation district that borders a lake.

(f) Subsection (d) does not affect the prohibition against possessing an open container in a passenger area of a motor vehicle under Section 49.031, Penal Code.

SECTION 118. Chapter 29, Alcoholic Beverage Code, is amended to read as follows:

CHAPTER 29. RETAILER ~~[MIXED-BEVERAGE]~~ LATE HOURS CERTIFICATE ~~[PERMIT]~~

Sec. 29.01. ELIGIBLE PERMIT AND LICENSE HOLDERS. A retailer late hours certificate may be issued to the holder of a mixed beverage permit, private club registration permit, or retail dealer's on-premise license.

Sec. 29.02. AUTHORIZED ACTIVITIES. The holder of a retailer late hours certificate ~~[mixed beverage late hours permit]~~ may sell or serve the alcoholic beverages the holder is authorized to sell or serve under its primary permit or license ~~[mixed beverages]~~ on Sunday between the hours of 1:00 a.m. and 2 a.m. and on any other day between the hours of 12 midnight and 2 a.m. if the premises covered by the license or permit are in an area where the sale or service of

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SECTION 119. Same as House version.

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those alcoholic [~~mixed~~] beverages during those hours is authorized by this code.

[~~Sec. 29.02. FEE. The annual state fee for a mixed beverage late hours permit is \$150.~~]

Sec. 29.03. **ISSUANCE OF CERTIFICATE AUTHORIZED FOR CERTAIN AREAS.** (a)

Notwithstanding any other provision of this code, a retailer late hours certificate may be issued to the holder of a retail dealer's on-premise license in an area in which the voters have approved the following alcoholic beverage ballot issues in a local option election:

(1) either:

(A) "The legal sale of beer and wine for off-premise consumption only."; or

(B) "The legal sale of malt beverages and wine for off-premise consumption only."; and

(2) either:

(A) "The legal sale of mixed beverages."; or

(B) "The legal sale of mixed beverages in restaurants by food and beverage certificate holders only."

(b) A premises that qualifies for a certificate under this chapter because it is located in an area that approved the ballot issue described by Subsection (a)(2)(B) may be issued a certificate under this chapter only if the premises is issued a food and beverage certificate [~~APPLICATION OF PROVISIONS REGULATING MIXED BEVERAGE PERMITS. All provisions of this code which apply to a mixed beverage permit also apply to a mixed beverage late hours permit~~].

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SECTION 119. Chapter 30, Alcoholic Beverage Code, is amended to read as follows:

CHAPTER 30. NONPROFIT ENTITY [~~DAILY~~]
TEMPORARY EVENT [~~MIXED-BEVERAGE~~] PERMIT

Sec. 30.01. DEFINITION. In this chapter, "nonprofit entity" means:

- (1) a nonprofit corporation;
- (2) a nonprofit charitable, civic, or religious organization;
- (3) a political party or political association supporting a candidate for public office or a proposed amendment to the Texas Constitution or other ballot measure; or
- (4) a fraternal organization with a regular membership that has been in continuous existence for more than five years.

Sec. 30.02. AUTHORIZED ACTIVITIES. The holder of a nonprofit entity [~~daily~~] temporary event [~~mixed-beverage~~] permit may sell [~~mixed-beverages~~] for consumption on the premises for which the permit is issued any alcoholic beverage that is authorized to be sold where the event is held.

~~Sec. 30.03. [Sec. 30.02. FEE. The state fee for a daily temporary mixed beverage permit is \$50 per day.~~

~~[Sec. 30.03.] ISSUANCE OF PERMIT. [(a)] The commission may [in its discretion,] issue [on] a nonprofit entity temporary event [basis a daily temporary mixed beverage] permit to a nonprofit entity for the sale of alcoholic beverages at an event sponsored by the permit holder including [A daily temporary mixed beverage permit may be issued only to a holder of a mixed beverage permit for the temporary sale of authorized alcoholic beverages at] picnics, celebrations, or similar events [or to~~

SENATE VERSION (IE)

SECTION 120. Chapter 30, Alcoholic Beverage Code, is amended to read as follows:

CHAPTER 30. NONPROFIT ENTITY [~~DAILY~~]
TEMPORARY EVENT [~~MIXED-BEVERAGE~~] PERMIT

Sec. 30.01. DEFINITION. In this chapter, "nonprofit entity" means:

- (1) a nonprofit corporation;
- (2) a nonprofit charitable, civic, or religious organization;
- (3) a political party or political association supporting a candidate for public office or a proposed amendment to the Texas Constitution or other ballot measure;
- (4) a fraternal organization with a regular membership that has been in continuous existence for more than five years; or
- (5) a person or group of persons who are subject to recordkeeping requirements under Chapter 254, Election Code.

Sec. 30.02. AUTHORIZED ACTIVITIES. The holder of a nonprofit entity [~~daily~~] temporary event [~~mixed-beverage~~] permit may sell [~~mixed-beverages~~] for consumption on the premises for which the permit is issued any alcoholic beverage that is authorized to be sold where the event is held.

~~Sec. 30.03. [Sec. 30.02. FEE. The state fee for a daily temporary mixed beverage permit is \$50 per day.~~

~~[Sec. 30.03.] ISSUANCE OF PERMIT. [(a)] The commission may [in its discretion,] issue [on] a nonprofit entity temporary event [basis a daily temporary mixed beverage] permit to a nonprofit entity for the sale of alcoholic beverages at an event sponsored by the permit holder including [A daily temporary mixed beverage permit may be issued only to a holder of a mixed beverage permit for the temporary sale of authorized alcoholic beverages at] picnics, celebrations, or similar events [or to~~

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~~a political party or political association supporting a candidate for public office or a proposed amendment to the Texas Constitution or other ballot measure, to an organization formed for a specific charitable or civic purpose, to a fraternal organization in existence for over five years with a regular membership, or to a religious organization. The commission shall not issue more than 10 temporary mixed beverage permits in each calendar year to a person who does not also hold a mixed beverage permit].~~

~~[(b) The provisions of this code which apply to the application for and issuance of other permits do not apply to the application and issuance of a daily temporary mixed beverage permit.]~~

Sec. 30.04. NOTATION OF DATES PERMIT IS VALID. When issuing a nonprofit entity temporary event permit under this chapter, the commission shall, on the face of the permit, indicate the dates on which the permit is valid.

Sec. 30.05. PURCHASE OF DISTILLED SPIRITS. Distilled spirits sold by the holder of a nonprofit entity [under a daily] temporary event [mixed beverage] permit must be purchased from the holder of a local distributor's permit.

Sec. 30.06 [30.05]. AUCTION OF ALCOHOLIC BEVERAGES. (a) The holder of a nonprofit entity temporary event permit may auction alcoholic beverages, for consumption off premises, to raise money to support the stated purpose of the permit holder.

(b) The proceeds from an auction authorized by this section shall be deposited to the account of the holder of a nonprofit entity temporary event permit.

(c) The holder of a nonprofit entity temporary event permit may not:

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~~a political party or political association supporting a candidate for public office or a proposed amendment to the Texas Constitution or other ballot measure, to an organization formed for a specific charitable or civic purpose, to a fraternal organization in existence for over five years with a regular membership, or to a religious organization. The commission shall not issue more than 10 temporary mixed beverage permits in each calendar year to a person who does not also hold a mixed beverage permit].~~

~~[(b) The provisions of this code which apply to the application for and issuance of other permits do not apply to the application and issuance of a daily temporary mixed beverage permit.]~~

Sec. 30.04. NOTATION OF DATES PERMIT IS VALID. When issuing a nonprofit entity temporary event permit under this chapter, the commission shall, on the face of the permit, indicate the dates on which the permit is valid.

Sec. 30.05. PURCHASE OF DISTILLED SPIRITS. Distilled spirits sold by the holder of a nonprofit entity [under a daily] temporary event [mixed beverage] permit must be purchased from the holder of a local distributor's permit.

Sec. 30.06 [30.05]. AUCTION OF ALCOHOLIC BEVERAGES. (a) The holder of a nonprofit entity temporary event permit may auction alcoholic beverages, for consumption off premises, to raise money to support the stated purpose of the permit holder.

(b) The proceeds from an auction authorized by this section shall be deposited to the account of the holder of a nonprofit entity temporary event permit.

(c) The holder of a nonprofit entity temporary event permit may not:

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(1) auction distilled spirits or wine that has not been donated to the organization;
(2) auction alcoholic beverages if any taxes are owed on the beverages; or
(3) pay a commission or promotional allowance to a person to:
(A) arrange or conduct an auction under this section; or
(B) arrange the donation of alcoholic beverages to be auctioned by the organization [~~APPLICATION OF PROVISIONS REGULATING MIXED BEVERAGE PERMITS. All provisions of this code applicable to a mixed beverage permit also apply to a daily temporary mixed beverage permit unless there is a special provision to the contrary~~].
Sec. 30.07 [30.06]. APPLICATION OF OTHER LAW. Section 11.39 does not apply to an applicant for a nonprofit entity temporary event permit.
Sec. 30.08. ADOPTION OF RULES. The commission shall [may] adopt rules which it determines to be necessary to implement and administer the provisions of this chapter, including:
(1) limitations on the number of times during any calendar year a nonprofit entity [qualified organization] may be issued a permit under this chapter, which may vary based on the type of entity and other factors the commission determines relevant;
(2) the duration for a permit issued under this chapter which may vary depending on the length of the event for which the permit is being issued; and
(3) penalties for a violation of this code or a rule adopted under this code.

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(1) auction distilled spirits or wine that has not been donated to the organization;
(2) auction alcoholic beverages if any taxes are owed on the beverages; or
(3) pay a commission or promotional allowance to a person to:
(A) arrange or conduct an auction under this section; or
(B) arrange the donation of alcoholic beverages to be auctioned by the organization [~~APPLICATION OF PROVISIONS REGULATING MIXED BEVERAGE PERMITS. All provisions of this code applicable to a mixed beverage permit also apply to a daily temporary mixed beverage permit unless there is a special provision to the contrary~~].
Sec. 30.07 [30.06]. APPLICATION OF OTHER LAW. Section 11.39 does not apply to an applicant for a nonprofit entity temporary event permit.
Sec. 30.08. ADOPTION OF RULES. The commission shall [may] adopt rules which it determines to be necessary to implement and administer the provisions of this chapter, including:
(1) limitations on the number of times during any calendar year a nonprofit entity [qualified organization] may be issued a permit under this chapter, which may vary based on the type of entity and other factors the commission determines relevant;
(2) the duration for a permit issued under this chapter which may vary depending on the length of the event for which the permit is being issued; and
(3) penalties for a violation of this code or a rule adopted under this code.

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Sec. 30.09. EVENTS IN DRY AREA. (a) The commission may issue a nonprofit entity temporary event permit to a nonprofit corporation for a fund-raising event for the nonprofit corporation that is located in a dry area.

(b) A nonprofit entity temporary event permit under this section may only be issued for an event:

(1) in the county where the nonprofit corporation is located; and

(2) that lasts not longer than eight hours.

(c) A nonprofit corporation may be issued only one nonprofit entity temporary event permit under this section in each calendar year.

(d) The commission by rule shall establish the procedure for obtaining and operating under a nonprofit entity temporary event permit issued under this section.

SECTION 120. Section 32.01(b), Alcoholic Beverage Code, is amended to read as follows:

(b) An applicant for or the holder of a private club registration permit may apply to the commission to have the activities authorized under the permit restricted to the storage and service of wine~~[-beer,]~~ and malt beverages [~~liquor~~] for members of the club. Except as otherwise provided by this chapter, an applicant for or the holder of a permit that is restricted under this subsection is subject to all the requirements of this chapter. The commission may adopt rules as necessary to implement this subsection.

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Sec. 30.09. EVENTS IN DRY AREA. (a) The commission may issue a nonprofit entity temporary event permit to a nonprofit corporation for a fund-raising event for the nonprofit corporation that is located in a dry area.

(b) A nonprofit entity temporary event permit under this section may only be issued for an event:

(1) in the county where the nonprofit corporation is located; and

(2) that lasts not longer than eight hours.

(c) A nonprofit corporation may be issued only one nonprofit entity temporary event permit under this section in each calendar year.

(d) The commission by rule shall establish the procedure for obtaining and operating under a nonprofit entity temporary event permit issued under this section.

SECTION 121. Same as House version.

CONFERENCE

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SECTION 121. Section 32.08, Alcoholic Beverage Code, is amended by amending Subsections (b) and (c) and adding Subsection (d) to read as follows:

(b) If the club holding the permit is in an area where there are no local distributors, alcoholic beverages may be purchased in any area where local distributors are located and may be transported to the club premises ~~[if the club also holds a beverage cartage permit]~~. The transporter may acquire the alcoholic beverages only on the written order of an officer or manager of the club holding the permit. The alcoholic beverages must be accompanied by a written statement furnished and signed by the local distributor showing the name and address of the consignee and consignor, the origin and destination of the shipment, and any other information required by the commission or administrator. The person in charge of the alcoholic beverages while they are being transported shall exhibit the written statement to any representative of the commission or any peace officer on demand, and the statement shall be accepted by the representative or officer as prima facie evidence of the lawful right to transport the alcoholic beverages.

(c) If a private club registration permittee's ~~[permittee holds a beverage cartage permit and his]~~ premises are located in a regional airport governed by a board, commission, or authority composed of members from two or more counties, and there is no local distributor at the airport, the private club registration permittee may purchase alcoholic beverages from any local distributor in a trade area served by the airport and transport the alcoholic beverages ~~[them]~~ to the permit holder's ~~[his]~~ licensed premises. The transportation of the

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SECTION 122. Same as House version.

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beverages must be in accordance with Subsection (b) [~~of this section~~].

(d) The holder of a private club registration permit may transfer alcoholic beverages from the place of purchase to the permitted premises as provided in this code.

SECTION 122. Sections 32.17(a) and (c), Alcoholic Beverage Code, are amended to read as follows:

(a) The commission or administrator may cancel or suspend for a period of time not exceeding 60 days, after notice and hearing, an original or renewal private club registration permit on finding that the permittee club has:

- (1) sold, offered for sale, purchased, or held title to any alcoholic beverage so as to constitute an open saloon;
- (2) refused to allow an authorized agent or representative of the commission or a peace officer to come on the club premises for the purposes of inspecting alcoholic beverages stored on the premises or investigating compliance with the provisions of this code;
- (3) refused to furnish the commission or its agent or representative when requested any information pertaining to the storage, possession, serving, or consumption of alcoholic beverages on club premises;
- (4) permitted or allowed any alcoholic beverages stored on club premises to be served or consumed at any place other than on the club premises;
- (5) failed to maintain an adequate building at the address for which the private club registration permit was issued;
- (6) caused, permitted, or allowed any member of a club in a dry area to store any liquor on club premises except under the locker system;

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SECTION 123. Same as House version.

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(7) caused, permitted, or allowed any person to consume or be served any alcoholic beverage on the club premises:

(A) at any time on Sunday between the hours of 1:15 a.m. and 10 a.m. or on any other day at any time between the hours of 12:15 a.m. and 7 a.m., if the club does not have a retailer [~~private club~~] late hours certificate [~~permit~~], except that an alcoholic beverage served to a customer between 10 a.m. and 12 noon on Sunday must be provided during the service of food to the customer; or

(B) at any time on Sunday between the hours of 2 a.m. and 10 a.m. or on any other day at any time between the hours of 2 a.m. and 7 a.m., if the club has a retailer [~~private club~~] late hours certificate [~~permit~~], except that an alcoholic beverage served to a customer between 10 a.m. and 12 noon on Sunday must be provided during the service of food to the customer; or

(8) violated or assisted, aided or abetted the violation of any provision of this code.

(c) After notice and an opportunity for a hearing, the commission or administrator may cancel or suspend the private club registration permit of a permit holder who has restricted the holder's authorized activities under the permit as provided by Section 32.01(b) [~~of this code~~] on a determination that the permit holder is storing or serving alcoholic beverages to club members other than, or in addition to, wine[~~, beer,~~] and malt beverages [~~liquor~~].

SECTION 123. Chapter 32, Alcoholic Beverage Code, is amended by adding Section 32.25 to read as follows:

SENATE VERSION (IE)

SECTION 124. Chapter 32, Alcoholic Beverage Code, is amended by adding Section 32.25 to read as follows:

Sec. 32.25. SALES AT TEMPORARY LOCATION. (a)
The holder of a private club registration permit may

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Sec. 32.25. SALES AT TEMPORARY LOCATION. (a) The holder of a private club registration permit may temporarily serve authorized alcoholic beverages at:

(1) a picnic, celebration, or similar event sponsored by:

(A) a political party or political association supporting a candidate for public office or a proposed amendment to the Texas Constitution or other ballot measure;

(B) a charitable or civic organization;

(C) a fraternal organization with a regular membership that has been in continuous existence for more than five years; or
(D) a religious organization; and

(2) that is located in the county where the private club registration permit is issued.

(b) The holder of a private club registration permit may temporarily serve alcoholic beverages under this section not more than two times in each calendar year.

(c) Distilled spirits served under this section must be purchased from the holder of a local distributor's permit.

(d) The commission shall adopt rules to implement this section, including rules that:

(1) require the permit holder to notify the commission of the dates on which and location where the permit holder will temporarily offer alcoholic beverages for sale under this section;

(2) establish a procedure to verify the wet or dry status of the location where the permit holder intends to temporarily sell alcoholic beverages under this section;

(3) detail the circumstances when a permit holder may temporarily sell alcoholic beverages under this section with only a notification to the commission and the circumstances

SENATE VERSION (IE)

temporarily serve authorized alcoholic beverages at a picnic, celebration, or similar event:

(1) sponsored by:

(A) a political party or political association supporting a candidate for public office or a proposed amendment to the Texas Constitution or other ballot measure;

(B) a charitable or civic organization;

(C) a fraternal organization with a regular membership that has been in continuous existence for more than five years; or

(D) a religious organization; and

(2) that is located in the county where the private club registration permit is issued.

(b) The holder of a private club registration permit may temporarily serve alcoholic beverages under this section not more than two times in each calendar year for the same party, association, or organization.

(c) Distilled spirits served under this section must be purchased from the holder of a local distributor's permit.

(d) The commission shall adopt rules to implement this section, including rules that:

(1) require the permit holder to notify the commission of the dates on which and location where the permit holder will temporarily offer alcoholic beverages for sale under this section;

(2) establish a procedure to verify the wet or dry status of the location where the permit holder intends to temporarily sell alcoholic beverages under this section;

(3) detail the circumstances when a permit holder may temporarily sell alcoholic beverages under this section with only a notification to the commission and the circumstances that require the commission's preapproval before a permit

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that require the commission's preapproval before a permit holder may temporarily sell alcoholic beverages under this section; and
(4) require the permit holder to provide any other information the commission determines necessary.

SECTION 124. Effective September 1, 2019, the heading to Chapter 35, Alcoholic Beverage Code, is amended to read as follows:
CHAPTER 35. AGENTS [~~AGENT'S PERMIT~~]

SECTION 125. Effective September 1, 2019, Section 35.01, Alcoholic Beverage Code, is amended to read as follows:
Sec. 35.01. AUTHORIZED ACTIVITIES. (a) An agent [~~The holder of an agent's permit~~] may:
(1) represent permittees other than retailers within this state who are authorized to sell liquor to retail dealers in the state; and
(2) solicit and take orders for the sale of liquor from authorized permittees.
(b) A person acting as an agent may only represent one permitted or licensed business at a time while soliciting or taking orders.

SECTION 126. Effective September 1, 2019, Section 35.05, Alcoholic Beverage Code, is amended to read as follows:
Sec. 35.05. SAMPLES. An agent [~~The holder of an agent's permit~~] may not transport or carry liquor as samples, but may carry or display empty sample containers.

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holder may temporarily sell alcoholic beverages under this section; and
(4) require the permit holder to provide any other information the commission determines necessary.

SECTION 125. Same as House version.

SECTION 126. Same as House version.

SECTION 127. Same as House version.

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SECTION 127. Effective September 1, 2019, Section 35.06, Alcoholic Beverage Code, is amended to read as follows:
Sec. 35.06. INELIGIBILITY TO SERVE AS NONRESIDENT SELLER'S AGENT [~~FOR MANUFACTURER'S AGENT'S PERMIT~~]. A person acting as an agent under this chapter [~~holding an agent's permit~~] may not act as [~~be issued~~] a nonresident seller's agent under Chapter 36 [~~manufacturer's agent's permit~~].

SECTION 128. Same as House version.

SECTION 128. Effective September 1, 2019, Section 35.07, Alcoholic Beverage Code, is amended to read as follows:
Sec. 35.07. UNAUTHORIZED REPRESENTATION. An agent [~~A holder of an agent's permit~~] in soliciting or taking orders for the sale of liquor may not represent that the agent is [~~himself to be~~] an agent of any person other than the person who employs the agent or who has authorized the agent to represent the person [~~designated in his permit application~~].

SECTION 129. Same as House version.

SECTION 129. Effective September 1, 2019, the heading to Chapter 36, Alcoholic Beverage Code, is amended to read as follows:
CHAPTER 36. NONRESIDENT SELLER'S AGENTS [~~MANUFACTURER'S AGENT'S PERMIT~~]

SECTION 130. Same as House version.

SECTION 130. Effective September 1, 2019, Section 36.01, Alcoholic Beverage Code, is amended to read as follows:

SECTION 131. Same as House version.

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Sec. 36.01. AUTHORIZED ACTIVITIES. (a) A nonresident seller's agent ~~[The holder of a manufacturer's agent's permit]~~ may:

- (1) represent only the holders of nonresident seller's permits; and
- (2) solicit and take orders for the sale of liquor from permittees authorized to import liquor for the purpose of resale.

(b) A person acting as a nonresident seller's agent may only represent one permitted or licensed business at a time while soliciting or taking orders.

SECTION 131. Effective September 1, 2019, Section 36.04, Alcoholic Beverage Code, is amended to read as follows:
Sec. 36.04. INELIGIBILITY TO SERVE AS AN AGENT ~~[FOR AGENT'S PERMIT]~~. A person acting as ~~[holder of]~~ a nonresident seller's agent ~~[manufacturer's agent's permit]~~ may not act as an agent under Chapter 35 ~~[be issued an agent's permit]~~.

SECTION 132. Effective September 1, 2019, Section 36.05, Alcoholic Beverage Code, is amended to read as follows:
Sec. 36.05. SAMPLES. A nonresident seller's agent ~~[The holder of a manufacturer's agent's permit]~~ may not transport or carry liquor as samples, but may carry or display empty sample containers.

SECTION 133. Effective September 1, 2019, Section 36.06, Alcoholic Beverage Code, is amended to read as follows:

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SECTION 132. Same as House version.

SECTION 133. Same as House version.

SECTION 134. Same as House version.

CONFERENCE

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Sec. 36.06. SOLICITATION FROM HOLDER OF MIXED BEVERAGE OR PRIVATE CLUB PERMIT. A ~~nonresident seller's agent [holder of a manufacturer's agent's permit]~~ may not solicit business directly or indirectly from a holder of a mixed beverage permit or a private club registration permit unless the agent [he] is accompanied by the holder of a wholesaler's permit or the wholesaler's agent.

SECTION 134. Effective September 1, 2019, Section 36.07, Alcoholic Beverage Code, is amended to read as follows:

Sec. 36.07. UNAUTHORIZED REPRESENTATION. A ~~nonresident seller's agent [holder of a manufacturer's agent's permit]~~ in soliciting or taking orders for the sale of liquor may not represent that the agent is [himself as] an agent of a person other than the person who employs the agent or who has authorized the agent to represent the person [designated in his permit application].

SECTION 135. Effective September 1, 2019, Section 36.08, Alcoholic Beverage Code, is amended to read as follows:

Sec. 36.08. RESTRICTION AS TO SOURCE OF SUPPLY. A ~~nonresident seller's agent [manufacturer's agent's permittee]~~ may not represent a person with respect to an alcoholic beverage unless the person represented is the primary American source of supply of the beverage as defined in Section 37.10 ~~[of this code]~~.

SECTION 136. Section 37.01(b), Alcoholic Beverage Code, is amended to read as follows:

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SECTION 135. Same as House version.

SECTION 136. Same as House version.

SECTION 137. Same as House version.

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(b) The holder of a nonresident seller's permit who owns a winery [~~or brewery~~] outside of the state may conduct samplings of the kinds of alcoholic beverages the permit holder is authorized to produce, including tastings, at a retailer's premises. An employee of the winery [~~or brewery~~] may open, touch, or pour the alcoholic beverages, make a presentation, or answer questions at a sampling event.

SECTION 137. Effective September 1, 2019, Section 37.01(c), Alcoholic Beverage Code, is amended to read as follows:

(c) Any alcoholic beverages used in a sampling event under this section must be purchased from the retailer on whose premises the sampling event is held. This section does not authorize the holder of a nonresident seller's permit or the [~~manufacturer's agent's~~] permit holder's agent to withdraw or purchase alcoholic beverages from the holder of a wholesaler's permit or provide alcoholic beverages for a sampling event on a retailer's premises that is not purchased from the retailer. The amount of alcoholic beverages purchased from the retailer may not exceed the amount of alcoholic beverages used in the sampling event.

SECTION 138. Effective September 1, 2019, the heading to Chapter 38, Alcoholic Beverage Code, is amended to read as follows:

CHAPTER 38. INDUSTRIAL USE OF ALCOHOL
[~~PERMIT~~]

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SECTION 138. Same as House version.

SECTION 139. Same as House version.

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SECTION 139. Effective September 1, 2019, Section 38.01, Alcoholic Beverage Code, is amended to read as follows:

Sec. 38.01. AUTHORIZED ACTIVITIES. (a) In this section, "industrial alcohol" means an alcohol that is produced for industrial purposes only and is not fit for human consumption.

(b) A person may:

(1) manufacture, rectify, refine, transport, and store industrial alcohol;

(2) denature industrial alcohol;

(3) sell denatured or industrial alcohol to qualified persons inside or outside the state; and

(4) blend industrial alcohol with petroleum distillates and sell or use the resulting product as a motor fuel.

(c) A person ~~[The holder of an industrial permit]~~ may import, transport, and use alcohol or denatured alcohol for the manufacture and sale of any of the following products:

(1) denatured alcohol;

(2) patent, proprietary, medicinal, pharmaceutical, antiseptic, and toilet preparations;

(3) flavoring extracts, syrups, condiments, and food products; and

(4) scientific, chemical, mechanical, and industrial products, or products used for scientific, chemical, mechanical, industrial, or medicinal purposes.

SECTION 140. Effective September 1, 2019, Section 38.05, Alcoholic Beverage Code, is amended to read as follows:

Sec. 38.05. OTHER CODE PROVISIONS INAPPLICABLE. The ~~[No]~~ provisions of this code do not

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SECTION 140. Same as House version.

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SECTION 141. Same as House version.

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~~[other than this chapter]~~ apply to alcohol intended for industrial, medicinal, mechanical, or scientific purposes.

SECTION 141. Effective September 1, 2019, Section 38.06, Alcoholic Beverage Code, is amended to read as follows:
Sec. 38.06. ACTIVITIES TAX FREE. The taxes imposed by this code do not apply to activities authorized in Section 38.01 ~~[of this code]~~.

SECTION 142. Section 43.01, Alcoholic Beverage Code, is amended to read as follows:
Sec. 43.01. AUTHORIZED ACTIVITIES. ~~[(a)]~~ A warehouse or transfer company that holds a local cartage permit may transport liquor for hire inside the corporate limits of any city or town in the state.
~~[(b) A package store, wine only package store, or local distributor's permittee who also holds a local cartage permit may transfer alcoholic beverages in accordance with Sections 22.08, 23.04, and 24.04 of this code.]~~

SECTION 143. Section 43.04, Alcoholic Beverage Code, is amended to read as follows:
Sec. 43.04. ELIGIBILITY FOR PERMIT. The commission may issue a local cartage permit to a warehouse or transfer company ~~[or to a holder of a package store, wine only package store, or local distributor's permit]~~.

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SECTION 142. Same as House version.

SECTION 143. Same as House version.

SECTION 144. Same as House version.

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SECTION 144. Chapter 48, Alcoholic Beverage Code, is amended to read as follows:

CHAPTER 48. PASSENGER TRANSPORTATION
~~[TRAIN BEVERAGE]~~ PERMIT

Sec. 48.01. AUTHORIZED ACTIVITIES. A ~~[The holder of a]~~ passenger transportation permit authorizes the ~~[train beverage]~~ permit holder to sell or serve the types ~~[has the same rights with respect to the sale]~~ of alcoholic beverages specifically authorized by this chapter ~~[on a passenger train to which this chapter applies as the holder of an airline beverage permit has with respect to the sale of alcoholic beverages on a commercial passenger airplane under Section 34.01 of this code].~~

Sec. 48.02. PERMIT FOR EXCURSION BOAT. (a) A passenger transportation permit may be issued for:

(1) a regularly scheduled excursion boat which is licensed by the United States Coast Guard to carry passengers on the navigable waters of the state if the boat:

(A) carries at least 45 passengers;

(B) weighs at least 35 gross tons; and

(C) is at least 55 feet long; or

(2) a boat that:

(A) carries at least 350 passengers;

(B) weighs at least 90 gross tons; and

(C) is at least 80 feet long.

(b) The holder of a passenger transportation permit issued under Subsection (a)(1) may sell the same alcoholic beverages as the holder of a mixed beverage permit if:

(1) the home port of the boat is in an area where the sale of mixed beverages is legal or the boat is regularly used for voyages in international waters as provided by Subsection (h); and

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SECTION 145. Same as House version.

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(2) the owner or operator of the boat is the sole permit holder for the boat.

(c) The holder of a passenger transportation permit issued under Subsection (a)(1) may sell the same alcoholic beverages as the holder of a wine and malt beverage retailer's permit if the home port of the boat is in an area where the sale of malt beverages and wine is legal.

(d) The holder of a passenger transportation permit issued under Subsection (a)(2) may sell the same alcoholic beverages as the holder of a mixed beverage permit if:

(1) the home port of the boat is in an area where the sale of mixed beverages is legal; or

(2) the boat is regularly used for voyages in international waters as provided by Subsection (h).

(e) A passenger transportation permit issued under this section is inoperative in a dry area.

(f) For purposes of Section 11.38, the home port of the boat is treated as the location of the permitted premises.

(g) The provisions of Section 109.53 that relate to residency requirements and compliance with Texas laws of incorporation do not apply to the holder of a passenger transportation permit under this section.

(h) A passenger transportation permit may be issued under this section to a boat regularly used for voyages in international waters regardless of whether the sale of mixed beverages is lawful in the area of the home port. A person having authority to deliver alcoholic beverages to a passenger transportation permit holder in the county where the permitted premises is located may deliver alcoholic beverages purchased by the permit holder [FEE. The annual fee for a passenger transportation permit is \$500].

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Sec. 48.03. ~~[ELIGIBILITY FOR]~~ PERMIT FOR AIRLINE.

~~(a) A [The commission or administrator may issue a] passenger transportation [train beverage] permit may be issued to any corporation operating a commercial airline in or through the state.~~

~~(b) The holder of a passenger transportation permit issued under this section may:~~

~~(1) sell or serve alcoholic beverages in or from any size container on a commercial passenger airplane operated in compliance with a valid license, permit, or certificate issued under the authority of the United States or of this state, even though the plane, in the course of its flight, may cross an area in which the sale of alcoholic beverages is prohibited; and~~

~~(2) store alcoholic beverages in sealed containers of any size at any airport regularly served by the permittee, in accordance with rules and regulations promulgated by the commission.~~

~~(c) Only the holder of a package store permit may sell liquor to the holder of a passenger transportation permit issued under this section. For the purposes of this code, a sale of liquor to a holder of a passenger transportation permit shall be considered as a sale at retail to a consumer.~~

~~(d) The holder of a package store permit may sell liquor in any size container authorized by Section 101.46 to holders of a passenger transportation permit issued under this section, and may purchase liquor in any size container for resale from the holders of a wholesaler's permit. A holder of a wholesaler's permit may import, sell, offer for sale, or possess for resale to package store permittees to resell to holders of a passenger transportation permit liquor in any authorized size containers.~~

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(e) The preparation and service of alcoholic beverages by the holder of a passenger transportation permit issued under this section is exempt from a tax imposed by this code and from the tax imposed by Chapter 151, Tax Code.

(f) Section 109.53 does not apply to a passenger transportation permit issued under this section.

Sec. 48.04. PERMIT FOR PASSENGER TRAIN. (a) A passenger transportation permit may be issued to any corporation organized under the Business Organizations Code or former Title 112, Revised Statutes, or under the Rail Passenger Service Act of 1970, as amended (45 U.S.C.A. Section 501 et seq.), operating a commercial passenger train service in or through the state.

(b) The holder of a passenger transportation permit issued under this section may sell or serve alcoholic beverages in or from any size container on a passenger train even though the train, in the course of its travel, may cross an area in which the sale of alcoholic beverages is prohibited [Application and payment of the fee shall be made directly to the commission].

(c) [Sec. 48.04. EXEMPTION FROM TAXES.] The preparation and service of alcoholic beverages by the holder of a passenger ~~transportation~~ ~~train beverage~~ permit issued under this section is exempt from a tax imposed by this code ~~chapter~~ and from the tax imposed by Chapter 151, Tax Code.

(d) Section 109.53 does not apply to a passenger transportation permit issued under this section.

Sec. 48.05. PERMIT FOR PASSENGER BUS. (a) A ~~[INAPPLICABLE PROVISION. Section 109.53 of this code does not apply to a]~~ passenger ~~transportation~~ ~~train beverage~~ permit may be issued to any corporation operating a

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commercial passenger bus service in or through the state using a passenger bus that:

(1) is designed and used for the regularly scheduled intercity transportation of passengers for compensation;

(2) is characterized by integral construction with:

(A) an elevated passenger deck over a baggage compartment;

(B) a passenger seating capacity of at least 16 and not more than 36; and

(C) a separate galley area;

(3) is at least 35 feet in length; and

(4) while transporting passengers for compensation, also transports an attendant who:

(A) is not the operator of the bus; and

(B) has attended a commission-approved seller training program.

(b) The holder of a passenger transportation permit issued under this section may:

(1) sell or serve alcoholic beverages in or from any size container on a passenger bus even though the bus, in the course of its drive, may cross an area in which the sale of alcoholic beverages is prohibited; and

(2) store alcoholic beverages at the permitted location.

(c) The preparation and service of alcoholic beverages by the holder of a passenger transportation permit issued under this section is exempt from a tax imposed by this code and from the tax imposed by Chapter 151, Tax Code.

(d) Section 109.53 does not apply to a passenger transportation permit issued under this section.

(e) Only a holder of a wholesale permit may sell liquor to the holder of a passenger transportation permit issued under this section. A sale of liquor to the holder of a passenger

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transportation permit issued under this section shall be considered as a sale at retail to a consumer.

SECTION 145. Section 50.001, Alcoholic Beverage Code, is amended to read as follows:

Sec. 50.001. AUTHORIZED ACTIVITIES. The holder of a promotional permit may, on behalf of a distiller, brewer, rectifier, or ~~manufacturer,~~ winery~~[- or wine bottler]~~ with whom the promotional permit holder has entered into a contract for the purposes of this chapter, engage in activities to promote and enhance the sale of an alcoholic beverage in this state, including activities that take place on the premises of the holder of a permit or license under this code.

SECTION 146. Same as House version.

SECTION 146. The heading to Chapter 51, Alcoholic Beverage Code, is amended to read as follows:

CHAPTER 51. OPERATION OF MINIBARS ~~[MINIBAR PERMIT]~~

SECTION 147. Same as House version.

SECTION 147. Section 51.02, Alcoholic Beverage Code, is amended to read as follows:

Sec. 51.02. AUTHORIZED ACTIVITIES. The holder of a mixed beverage ~~[minibar]~~ permit issued for operation in a hotel may sell the following alcoholic beverages out of a minibar:

- (1) distilled spirits in containers of not less than one ounce nor more than two ounces;
- (2) wine and vinous liquors in containers of not more than 13 fluid ounces; and

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(3) ~~[beer, ale, and]~~ malt beverages ~~[liquor]~~ in containers of not more than 12 fluid ounces.

SECTION 148. Section 51.03, Alcoholic Beverage Code, is amended to read as follows:

Sec. 51.03. LIMITED ACCESS TO MINIBAR. (a) Minibars shall be of such design as to prevent access to alcoholic beverages to all persons who do not have a minibar key. The minibar key shall be different from the hotel guestroom key, and the mixed beverage permittee may ~~shall~~ not provide the minibar key to any person who is not of legal drinking age.

(b) A mixed beverage permittee may not provide a minibar key to any person other than an employee of the permittee or a registered guest of the hotel.

SECTION 149. Sections 51.04(a), (c), and (d), Alcoholic Beverage Code, are amended to read as follows:

(a) All employees handling distilled spirits, wine, ~~[beer, ale,]~~ and malt beverages ~~[liquor]~~ being stocked in the minibar must be at least 18 years of age.

(c) A minibar may only be maintained, serviced, or stocked with alcoholic beverages by a person who is an employee of the holder of a mixed beverage ~~[minibar]~~ permit, and no other person shall be authorized to add alcoholic beverages to a minibar or, with the exception of a registered hotel guest consumer, to remove alcoholic beverages from a minibar.

(d) A mixed beverage permit ~~[The]~~ holder who operates ~~[of]~~ a minibar ~~[permit]~~ shall adhere to standards of quality and purity of alcoholic beverages prescribed by the commission

SENATE VERSION (IE)

SECTION 149. Same as House version.

SECTION 150. Same as House version.

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and shall destroy any alcoholic beverages contained in a minibar on the date which is considered by the manufacturer of the alcoholic beverage to be the date the product becomes inappropriate for sale to a consumer.

SECTION 150. Section 51.06, Alcoholic Beverage Code, is amended to read as follows:

Sec. 51.06. PROHIBITED INTERESTS. The holder of a mixed beverage permit who operates a minibar [~~permit~~] may not have a direct or indirect interest in a package store permit, and a [~~no~~] package store may not be located on the premises of a hotel in which a mixed beverage permittee operates [~~holds~~] a minibar [~~permit~~].

SECTION 151. Section 51.07, Alcoholic Beverage Code, is amended to read as follows:

Sec. 51.07. MIXED BEVERAGE PERMIT IS PRIMARY. All purchases made by a holder of a mixed beverage permit who operates a minibar [~~permittee~~] shall be made under the authority of and subject to the limitations imposed on the mixed beverage permit held by the permittee. All sales [~~made by a minibar permittee~~] shall, for tax purposes, be considered sales under the mixed beverage permit held by the permittee and shall be taxed accordingly. To ensure that the marketing of alcoholic beverages for stocking minibars is not used by suppliers for purposes of inducement or unauthorized or illegal advertising, it is further provided that: (1) No person who holds a permit or license authorizing sale of any alcoholic beverage to mixed beverage permittees may sell or offer to sell alcoholic beverages to the mixed beverage

SENATE VERSION (IE)

SECTION 151. Same as House version.

SECTION 152. Same as House version.

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[~~a minibar~~] permittee at a cost less than the seller's laid-in cost plus the customary and normal profit margin applicable to other container sizes. The laid-in cost shall be defined as the manufacturer's or supplier's invoice price, plus all applicable freight, taxes, and duties.

(2) Proof of laid-in cost shall become a part of the permanent records of each permittee or licensee supplying alcoholic beverages to a mixed beverage permittee who operates a minibar [~~permittees~~] and be available for a period of two years for inspection by the commission.

(3) No alcoholic beverages offered for use in a minibar may be sold in connection with or conveyed as part of any promotional program providing a discount on the purchase of any other type, size, or brand of alcoholic beverage.

(4) Distilled spirits in containers with a capacity of more than one but less than two fluid ounces must be invoiced separately from any other alcoholic beverage, and the price must be shown on the invoice.

(5) Distilled spirits in containers with a capacity of more than one but less than two fluid ounces may not be returned by the mixed beverage permit holder [~~of a minibar permit~~]. Neither may the beverages be exchanged by the mixed beverage permit holder [~~of a minibar permit~~] or redeemed for any reason other than damage noted at the time of delivery and approved by the commission. Claims for breakage or shortage after delivery to a mixed beverage permit holder who operates a minibar [~~permittee~~] shall not be allowed.

(6) No person holding a wholesaler's, local distributor's, or package store permit may participate in the cost of producing any room menu, beverage list, table tent, or any other device or novelty, written or printed, relating to the sale of distilled spirits in containers with a capacity of more than one but less

SENATE VERSION (IE)

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than two fluid ounces. No permittee or licensee authorized to sell alcoholic beverages to a mixed beverage [~~minibar~~] permittee who operates a minibar may pay for or contribute to the cost of providing in-house television or radio announcements to be used by any holder of a mixed beverage permit who operates a minibar [~~permit~~] to promote the sale of alcoholic beverages.

SECTION 152. Sections 55.01(a), (b), and (c), Alcoholic Beverage Code, are amended to read as follows:

(a) The holder of a manufacturer's agent's warehousing permit may:

(1) receive [~~beer, ale, or~~] malt beverages [~~liquor~~] from the holder of a nonresident brewer's [~~permit or nonresident manufacturer's~~] license and store the alcoholic beverages on the permitted premises;

(2) ship, cause to be shipped, sell, and otherwise transfer the [~~beer, ale, or~~] malt beverages [~~liquor~~] to licensed [~~or permitted~~] distributors [~~and wholesalers~~] in this state and to persons outside this state who are qualified to receive the [~~beer, ale, or~~] malt beverages [~~liquor~~] under the regulatory laws of the state or other jurisdiction in which the [~~beer, ale, or~~] malt beverages are [~~liquor is~~] received; and

(3) return [~~beer, ale, or~~] malt beverages [~~liquor~~] to the [~~manufacturer or~~] brewer from which they were [~~it was~~] originally received.

(b) The holder of a manufacturer's agent's warehousing permit may ship only to [~~wholesalers and~~] distributors in this state who have been issued a territorial designation by the actual [~~manufacturer or~~] brewer of the brand or brands to be shipped. This territorial designation for the sale of malt

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SECTION 153. Same as House version.

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beverages [~~beer~~] must be under and a part of the agreement entered into between the actual brewer [~~manufacturer~~] of the brand and the distributor under Subchapters C and D, Chapter 102. This chapter does not affect the requirement that the actual brewer [~~manufacturer~~], and the agreement between the actual brewer [~~manufacturer~~] and the distributor, comply with Subchapters C and D, Chapter 102. (c) Malt beverages [~~Beer, ale, or malt liquor~~] received at premises permitted under this chapter that are [~~is~~] not labeled and approved for sale in this state may be held and stored at the premises and may be shipped from the premises if the malt beverages are [~~it is~~] consigned and transported to qualified persons in other states or jurisdictions where their [~~its~~] sale is legal.

SECTION 153. Section 55.03, Alcoholic Beverage Code, is amended to read as follows:

Sec. 55.03. ELIGIBILITY FOR PERMIT. A manufacturer's agent's warehousing permit may be issued to an entity:

(1) that receives [~~beer, ale, or~~] malt beverages [~~liquor~~] from another entity, or that other entity's immediate successor in interest, that:

(A) is located and chartered in the United Mexican States;
(B) has held, for the two years preceding the date of the application:

(i) a nonresident manufacturer's license, nonresident brewer's permit, and a nonresident seller's permit;

(ii) a nonresident brewer's license and a nonresident seller's permit; or

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SECTION 154. Same as House version.

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~~(iii) a combination of Subparagraph (i) and Subparagraph (ii) [for the two years preceding the date of the application];~~
and
(C) during each of those two years has shipped or caused to be shipped into this state for ultimate sale to qualified distributors and wholesalers in this state at least one-half million barrels of ~~[beer, ale, or]~~ malt beverages ~~[liquor]~~ of the various brands manufactured or brewed by the entity; and
(2) whose employees, located in this state or elsewhere, ~~[hold permits and licenses issued under Chapters 36 and 73 to]~~ perform the activities authorized under Chapters 36 and 73 ~~[those chapters]~~ on behalf of the entity.

SECTION 154. Section 55.04, Alcoholic Beverage Code, is amended to read as follows:

Sec. 55.04. LOCATION OF PREMISES. The premises of a permit holder under this chapter must be located in an area that is wet for the sale of ~~[beer, ale, and]~~ malt beverages ~~[liquor]~~.

SECTION 155. Section 55.05, Alcoholic Beverage Code, is amended to read as follows:

Sec. 55.05. REPORTING REQUIREMENTS. The commission shall require monthly reports from a permit holder under this chapter showing the brands, types, sizes of containers, and quantities of ~~[beer, ale, or]~~ malt beverages ~~[liquor]~~ received at and shipped from the premises to persons authorized to receive them. The reports must conform in all respects to the requirements and forms prescribed by the

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SECTION 155. Same as House version.

SECTION 156. Same as House version.

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commission and contain any other information required by the commission.

SECTION 156. Section 56.02, Alcoholic Beverage Code, is amended to read as follows:

Sec. 56.02. QUALIFICATIONS FOR PERMIT; ELIGIBLE PREMISES. (a) A water park permit may be issued only to a person who:

(1) holds a wine and malt beverage [~~beer~~] retailer's permit under Chapter 25; and

(2) operates a public venue that:

(A) involves waterslides, food service, music, and amusement activities; and

(B) is located primarily along the banks of the Comal River.

(b) A person described by Subsection (a) may be issued water park permits for not more than five premises:

(1) for which wine and malt beverage [~~beer~~] retailer's permits have been issued under Chapter 25; and

(2) that are located:

(A) in the public venue described in Subsection (a)(2); or

(B) not more than one mile from the boundary of that venue.

SECTION 157. Section 56.04, Alcoholic Beverage Code, is amended to read as follows:

Sec. 56.04. APPLICABILITY OF OTHER LAW. Except as otherwise provided in this chapter, the provisions of this code applicable to a wine and malt beverage [~~beer~~] retailer's permit apply to a water park permit.

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SECTION 157. Same as House version.

SECTION 158. Same as House version.

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SECTION 158. Section 61.01, Alcoholic Beverage Code, is amended to read as follows:

Sec. 61.01. LICENSE REQUIRED. A ~~No~~ person may not ~~manufacture or~~ brew malt beverages ~~beer~~ for the purpose of sale, import malt beverages ~~it~~ into this state, distribute or sell malt beverages ~~it~~, or possess malt beverages ~~it~~ for the purpose of sale without having first obtained an appropriate license or permit as provided in this code. Each licensee shall display the ~~his~~ license at all times in a conspicuous place at the licensed place of business.

SECTION 159. Sections 61.03(a) and (b), Alcoholic Beverage Code, are amended to read as follows:

(a) Except as provided by Subsections (d) and (e) or another provision of this code, any license except a branch ~~importer's, importer's carrier's, or temporary~~ license expires on the second anniversary of the date on which it is issued. ~~[Notwithstanding Section 5.50(b), the commission shall require double the amount of fees and surcharges otherwise applicable under this code for a license with a two year term.]~~

(b) A secondary license or certificate which requires the holder of the license or certificate to first obtain another license, including a retailer late hours certificate ~~license or temporary license~~, expires on the same date the basic or primary license expires. The commission may not prorate or refund any part of the fee for the secondary license or certificate if the application of this section results in the expiration of the license in less than two years.

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SECTION 159. Same as House version.

SECTION 160. Same as House version.

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SECTION 160. Section 61.05, Alcoholic Beverage Code, is amended to read as follows:

Sec. 61.05. NAME OF BUSINESS. A ~~No~~ person may not conduct a business engaged in the brewing ~~manufacture~~, distribution, importation, or sale of malt beverages ~~beer~~ as owner or part owner except under the name to which the license covering the person's ~~his~~ place of business is issued.

SECTION 161. Section 61.06, Alcoholic Beverage Code, is amended to read as follows:

Sec. 61.06. PRIVILEGES LIMITED TO LICENSED PREMISES; DELIVERIES. A ~~No~~ person licensed to sell malt beverages ~~beer~~, other than ~~except~~ a brewer ~~manufacturer~~ or distributor, may not use or display a license or exercise a privilege granted by the license except at the licensed premises. Deliveries of malt beverages ~~beer~~ and collections may be made off the licensed premises in areas where the sale of malt beverages ~~beer~~ is legal inside the county where the license is issued, but only in response to orders placed by the customer in person at the licensed premises or by mail or telephone to the licensed premises.

SECTION 162. Section 61.07, Alcoholic Beverage Code, is amended to read as follows:

Sec. 61.07. AGENT FOR SERVICE. Each brewer ~~manufacturer~~, distributor, or person shipping or delivering malt beverages ~~beer~~ into this state shall file a certificate with the secretary of state designating the name, street address, and business of the person's ~~his~~ agent on whom process may be served. If a certificate is not filed, service

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SECTION 161. Same as House version.

SECTION 162. Same as House version.

SECTION 163. Same as House version.

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may be had on the secretary of state in any cause of action arising out of a violation of this code, and the secretary of state shall send any citation served on the secretary ~~him~~ by registered mail, return receipt requested, to the person for whom the citation is intended. The receipt is prima facie evidence of service on the person.

SECTION 163. Effective December 31, 2020, Section 61.09, Alcoholic Beverage Code, is amended to read as follows:

Sec. 61.09. CHANGE OF LOCATION. If a licensee desires to change the licensee's place of business, the licensee may do so by applying to the commission on a form prescribed by the commission and obtaining the commission's consent. The application may be subject to protest and hearing in the same way as an application for an original license. ~~[In the case of a required protest hearing, the county judge may deny the application for any cause for which an original license application may be denied.]~~ No additional license fee for the unexpired term of the license shall be required in the case of an application for a change of location.

SECTION 164. Section 61.111(a), Alcoholic Beverage Code, is amended to read as follows:

(a) The commission by rule shall require the holder of a license authorizing the sale of malt beverages ~~beer~~ for on-premises consumption to display a warning sign on the door to each restroom on the licensed premises that informs the public of the risks of drinking alcohol during pregnancy.

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SECTION 164. Same as House version.

SECTION 165. Same as House version.

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SECTION 165. Section 61.12, Alcoholic Beverage Code, is amended to read as follows:

Sec. 61.12. RESTRICTION ON CONSUMPTION. A [No] licensee other than ~~[except]~~ a holder of a license authorizing on-premises consumption of malt beverages ~~[beer]~~ may not permit malt beverages ~~[beer]~~ to be consumed on the premises where they are ~~[it is]~~ sold.

SECTION 166. (a) Effective December 31, 2020, Section 61.31, Alcoholic Beverage Code, is amended to read as follows:

Sec. 61.31. APPLICATION FOR LICENSE. (a) A person may file an application for a license to manufacture, distribute, store, or sell beer with the commission on forms prescribed by the commission.

(b) On receipt of an application for a license under this code, the commission [or administrator] shall follow the procedure under Section 11.43 [determine whether a protest has been filed against the application. If a protest against the application has been filed, the commission or administrator shall investigate the protest. If the commission or administrator finds that no reasonable grounds exist for the protest, or if no protest has been filed, the commission or administrator shall issue a license if the commission or administrator finds that all facts stated in the application are true and no legal ground to refuse a license exists. If the commission or administrator finds that reasonable grounds exist for the protest, the commission or administrator shall reject the protested application and require the applicant to file the application with the county judge of the county in

SENATE VERSION (IE)

SECTION 166. Same as House version.

SECTION 167. Same as House version.

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~~which the applicant desires to conduct business and submit to a hearing].~~

~~[(b) The county judge shall set a protested application for a hearing to be held not less than 5 nor more than 10 days after the date the county judge receives the protested application.]~~

~~(c) Each applicant for an original license[, other than a branch or temporary license,] shall pay [a hearing fee of \$25 to the county clerk at the time of the hearing. The county clerk shall deposit the fee in the county treasury. The applicant is liable for no other fee except] the annual license fee prescribed by this code.~~

~~(d) A [No] person may not sell beer during the pendency of the person's [his] original license application. An [No] official may not advise a person to the contrary.~~

~~(b) Effective September 1, 2021, Section 61.31, Alcoholic Beverage Code, is amended to read as follows:~~

~~Sec. 61.31. APPLICATION FOR LICENSE. (a) A person may file an application for a license to manufacture, distribute, store, or sell malt beverages [beer] with the commission on forms prescribed by the commission.~~

~~(b) On receipt of an application for a license under this code, the commission [or administrator] shall follow the procedure under Section 11.43 [determine whether a protest has been filed against the application. If a protest against the application has been filed, the commission or administrator shall investigate the protest. If the commission or administrator finds that no reasonable grounds exist for the protest, or if no protest has been filed, the commission or administrator shall issue a license if the commission or administrator finds that all facts stated in the application are true and no legal ground to refuse a license exists. If the commission or administrator finds that reasonable grounds~~

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~~exist for the protest, the commission or administrator shall reject the protested application and require the applicant to file the application with the county judge of the county in which the applicant desires to conduct business and submit to a hearing].~~

~~[(b) The county judge shall set a protested application for a hearing to be held not less than 5 nor more than 10 days after the date the county judge receives the protested application.]~~

~~(c) Each applicant for an original license[, other than a branch or temporary license,] shall pay [a hearing fee of \$25 to the county clerk at the time of the hearing. The county clerk shall deposit the fee in the county treasury. The applicant is liable for no other fee except] the [annual] license fee authorized by commission rule [~~prescribed by this code~~].~~

~~(d) A [No] person may not sell malt beverages [beer] during the pendency of the person's [his] original license application. An [No] official may not advise a person to the contrary.~~

SECTION 167. Effective December 31, 2020, Subchapter B, Chapter 61, Alcoholic Beverage Code, is amended by adding Sections 61.313 and 61.314 to read as follows:

Sec. 61.313. PROTEST BY MEMBER OF THE PUBLIC.

(a) A member of the public may protest an application for:

(1) an original retail dealer's on-premise license if a sexually oriented business is to be operated on the premises to be covered by the license;

(2) any renewal of a retail dealer's on-premise license if a sexually oriented business is to be operated on the premises to be covered by the license and a petition is presented to the

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commission that is signed by 50 percent of the residents who reside within 300 feet of any property line of the affected premises; or

(3) a license authorizing the retail sale of malt beverages for on-premises consumption if the person resides within 300 feet of any property line of the premises for which the license is sought.

(b) In addition to the situations described by Subsection (a), the commission by rule may authorize a member of the public to protest other license applications the commission considers appropriate.

(c) A protest made under this section must include an allegation of grounds on which the original or renewal application, as applicable, should be denied.

Sec. 61.314. PROTEST BY GOVERNMENT OFFICIAL.

(a) The following persons may protest an application for an alcoholic beverage license:

(1) the state senator, state representative, county commissioner, and city council member who represent the area in which the premises sought to be licensed are located;

(2) the commissioners court of the county in which the premises sought to be licensed are located;

(3) the county judge of the county in which the premises sought to be licensed are located;

(4) the sheriff or county or district attorney of the county in which the premises sought to be licensed are located;

(5) the mayor of the city or town in which the premises sought to be licensed are located; and

(6) the chief of police, city marshal, or city attorney of the city or town in which the premises sought to be permitted are located.

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(b) The commission may give due consideration to the recommendations of a person listed under Subsection (a) when evaluating an application for a license under this code.

SECTION 168. Effective December 31, 2020, Section 61.34(d), Alcoholic Beverage Code, is amended to read as follows:

(d) A person appealing from an order denying a license ~~under this section~~ shall give bond for all costs incident to the appeal and shall be required to pay those costs if the judgment on appeal is unfavorable to the applicant, but not otherwise. A ~~No~~ bond is not required on appeals filed on behalf of the state.

SECTION 169. Sections 61.35(a) and (b), Alcoholic Beverage Code, are amended to read as follows:

(a) A separate license fee is required for each place of business that brews ~~manufactures~~, imports, or sells malt beverages ~~beer~~.

(b) All license fees ~~[, except those for temporary licenses,]~~ shall be deposited as provided in Section 205.02. Each license application must be accompanied by a cashier's check, a teller's check, a check drawn on the account of a corporation applying for a license or on the account of a corporation that is an agent for the person applying for a license, a money order, or payment by credit card, charge card, or other electronic form of payment approved by commission rule for the amount of the state fee, payable to the order of the comptroller.

SENATE VERSION (IE)

SECTION 169. Same as House version.

SECTION 170. Same as House version.

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SECTION 170. Section 61.36(a), Alcoholic Beverage Code, is amended to read as follows:

(a) The governing body of an incorporated city or town may levy and collect a fee not to exceed one-half of the state fee for each license~~[-, except a temporary or agent's beer license,]~~ issued for premises located within the city or town. The commissioners court of a county may levy and collect a fee equal to one-half the state fee for each license~~[-, except a temporary or agent's beer license,]~~ issued for premises located within the county.

Those authorities may not levy or collect any other fee or tax from the licensee except general ad valorem taxes, the hotel occupancy tax levied under Chapter 351, Tax Code, and the local sales and use tax levied under Chapter 321, Tax Code.

SECTION 171. Effective December 31, 2020, Section 61.36(d), Alcoholic Beverage Code, is amended to read as follows:

(d) The commission or administrator may cancel or the commission may deny an application for a license for the retail sale of alcoholic beverages, including a license held by the holder of a food and beverage certificate, if it finds that the license holder or applicant has not paid delinquent ad valorem taxes due on that licensed premises or due from a business operated on that premises to any taxing authority in the county of the premises. For purposes of this subsection,

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SECTION 171. Section 61.36(a), Alcoholic Beverage Code, is amended to read as follows:

(a) The governing body of an incorporated city or town may levy and collect a fee ~~[not to exceed one-half of the state fee]~~ for each license~~[-, except a temporary or agent's beer license,]~~ issued for premises located within the city or town. The commissioners court of a county may levy and collect a fee ~~[equal to one-half the state fee]~~ for each license~~[-, except a temporary or agent's beer license,]~~ issued for premises located within the county. The fees authorized by this subsection may not exceed one-half the statutory fee provided in this code as of August 31, 2021, for the license issued.

Those authorities may not levy or collect any other fee or tax from the licensee except general ad valorem taxes, the hotel occupancy tax levied under Chapter 351, Tax Code, and the local sales and use tax levied under Chapter 321, Tax Code.

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a license holder or applicant is presumed delinquent in the payment of taxes due if the license holder or applicant:

- (1) is placed on a delinquent tax roll prepared under Section 33.03, Tax Code;
- (2) has received a notice of delinquency under Section 33.04, Tax Code; and
- (3) has not made a payment required under Section 42.08, Tax Code.

SECTION 172. Effective September 1, 2019, Sections 61.37(a) and (b), Alcoholic Beverage Code, are amended to read as follows:

(a) The county clerk of the county in which an application for a license is made shall certify whether the location or address given in the application is in a wet area and whether the sale of alcoholic beverages for which the license is sought is prohibited by any valid order of the commissioners court. The county clerk shall issue the certification not later than the 30th day after the date the county clerk receives the application for certification.

(b) The city secretary or clerk of the city in which an application for a license is made shall certify whether the location or address given in the application is in a wet area and whether the sale of alcoholic beverages for which the license is sought is prohibited by charter or ordinance. The city secretary or clerk of the city shall issue the certification

SENATE VERSION (IE)

SECTION 173. Effective September 1, 2019, Sections 61.37(a), (b), and (d), Alcoholic Beverage Code, are amended to read as follows:

(a) Not later than the 30th day after the date a prospective applicant for a license issued by the commission requests certification, the [The] county clerk of the county in which the request [~~an application for a license~~] is made shall certify whether the location or address given in the request [~~application~~] is in a wet area and whether the sale of alcoholic beverages for which the license is sought is prohibited by any valid order of the commissioners court.

(b) Not later than the 30th day after the date a prospective applicant for a license issued by the commission requests certification, the [The] city secretary or clerk of the city in which the request [~~an application for a license~~] is made shall certify whether the location or address given in the request [~~application~~] is in a wet area and whether the sale of alcoholic beverages for which the license is sought is prohibited by charter or ordinance.

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not later than the 30th day after the date the city secretary or clerk of the city receives the application for certification.

SECTION 173. Section 61.38(a), Alcoholic Beverage Code, is amended to read as follows:

(a) Every original applicant for a license to brew [~~manufacture~~], distribute, or sell malt beverages [~~beer~~] at retail shall give notice of the application by electronic or nonelectronic publication at the applicant's own expense in two consecutive issues of a newspaper of general circulation published in the city or town in which the applicant's place of business is located. If no newspaper is published in that city or town, the notice must be published in a newspaper of general circulation published in the county where the applicant's business is located. If no newspaper is published in that county, the notice must be published in a qualified newspaper published in the closest neighboring county and circulated in the county where the applicant's business is located.

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(d) Notwithstanding any other provision of this code, if the county clerk, city secretary, or city clerk certifies that the location or address given in the request [~~application~~] is not in a wet area or refuses to issue the certification required by this section, the prospective applicant is entitled to a hearing before the county judge to contest the certification or refusal to certify. The prospective applicant must submit a written request to the county judge for a hearing under this subsection. The county judge shall conduct a hearing required by this subsection not later than the 30th day after the date the county judge receives the written request.

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SECTION 174. Effective September 1, 2019, Section 61.381(c), Alcoholic Beverage Code, is amended to read as follows:

(c) This section does not apply to an applicant for a license issued under Chapter 64, ~~[65]~~ 66, or 71.

SECTION 175. Section 61.382(a), Alcoholic Beverage Code, is amended to read as follows:

(a) Except as provided by Subsection (b), a person who submits an original application for a license authorizing the retail sale of malt beverages ~~[beer]~~ for on-premises consumption shall give written notice of the application to each residential address and established neighborhood association located within 300 feet of any property line of the premises for which the license is sought.

SECTION 176. (a) Effective December 31, 2020, Section 61.41(c), Alcoholic Beverage Code, is amended to read as follows:

(c) If the holder of the existing license has made a declaration required by the commission that the license holder will no longer use the license, the license holder may not manufacture or sell beer or possess it for the purpose of sale until the license has been reinstated. The holder may apply to the commission for the reinstatement of the license in the same manner and according to the same procedure as in the case of an original license application. The ~~[county judge or the]~~ commission ~~[or administrator]~~ may deny reinstatement of the license for any cause for which an original license application may be denied.

SENATE VERSION (IE)

SECTION 175. Same as House version.

SECTION 176. Same as House version.

SECTION 177. Same as House version.

CONFERENCE

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(b) Effective September 1, 2021, Sections 61.41(c) and (d), Alcoholic Beverage Code, are amended to read as follows:

(c) If the holder of the existing license has made a declaration required by the commission that the license holder will no longer use the license, the license holder may not brew [~~manufacture~~] or sell malt beverages [~~beer~~] or possess malt beverages [~~it~~] for the purpose of sale until the license has been reinstated. The holder may apply to the commission for the reinstatement of the license in the same manner and according to the same procedure as in the case of an original license application. The [~~county judge or the~~] commission [~~or administrator~~] may deny reinstatement of the license for any cause for which an original license application may be denied.

(d) Notwithstanding Subsection (a) and Sections 11.49 and 109.53, more than one brewer's [~~manufacturer's~~] or nonresident brewer's [~~manufacturer's~~] license may be issued for a single premises if the license holder for the premises has contracted with an entity under an alternating brewery proprietorship or contract brewing arrangement.

SECTION 177. (a) Effective September 1, 2019, Section 61.42(a), Alcoholic Beverage Code, is amended to read as follows:

(a) The county judge shall refuse to approve an application for a license as a distributor or retailer if the county judge [~~he~~] has reasonable grounds to believe and finds that:

- (1) the applicant is a minor;
- (2) the applicant is indebted to the state for any taxes, fees, or penalties imposed by this code or by rule of the commission;

SENATE VERSION (IE)

SECTION 178. Same as House version.

CONFERENCE

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(3) the place or manner in which the applicant for a retail dealer's license may conduct the applicant's ~~[his]~~ business warrants a refusal of the application for a license based on the general welfare, health, peace, morals, safety, and sense of decency of the people;

(4) the applicant has developed an incapacity that prevents or could prevent the applicant from conducting the applicant's business with reasonable skill, competence, and safety to the public ~~[is in the habit of using alcoholic beverages to excess or is mentally or physically incompetent]~~;

(5) the applicant is not a United States citizen or has not been a citizen of Texas for a period of one year immediately preceding the filing of the applicant's ~~[his]~~ application, unless the applicant ~~[he]~~ was issued an original or renewal license on or before September 1, 1948;

(6) the applicant was finally convicted of a felony during the five years immediately preceding the filing of the applicant's ~~[his]~~ application;

(7) the applicant is not of good moral character or the applicant's ~~[his]~~ reputation for being a peaceable, law-abiding citizen in the community where the applicant ~~[he]~~ resides is bad; or

(8) as to a corporation, it is not incorporated under the laws of this state, or at least 51 percent of the corporate stock is not owned at all times by persons who individually are qualified to obtain a license, except that this subdivision does not apply to a holder of any renewal of a distributor's license which was in effect on January 1, 1953~~[, or to an applicant for a beer retailer's on-premise license for a railway car]~~.

(b) Effective December 31, 2020, Section 61.42, Alcoholic Beverage Code, is amended to read as follows:

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CONFERENCE

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SENATE VERSION (IE)

CONFERENCE

Sec. 61.42. MANDATORY GROUNDS FOR DENIAL ~~[REFUSAL]~~: DISTRIBUTOR OR RETAILER. (a) The commission ~~county judge~~ shall deny ~~refuse to approve~~ an application for a license as a distributor or retailer if the commission ~~he~~ has reasonable grounds to believe and finds that:

- (1) the applicant is a minor;
- (2) the applicant is indebted to the state for any taxes, fees, or penalties imposed by this code or by rule of the commission;
- (3) the place or manner in which the applicant for a retail dealer's license may conduct the applicant's ~~his~~ business warrants a denial ~~refusal~~ of the application for a license based on the general welfare, health, peace, morals, safety, and sense of decency of the people;
- (4) the applicant has developed an incapacity that prevents or could prevent the applicant from conducting the applicant's business with reasonable skill, competence, and safety to the public ~~is in the habit of using alcoholic beverages to excess or is mentally or physically incompetent~~;
- (5) the applicant is not a United States citizen or has not been a citizen of Texas for a period of one year immediately preceding the filing of the applicant's ~~his~~ application, unless the applicant ~~he~~ was issued an original or renewal license on or before September 1, 1948;
- (6) the applicant was finally convicted of a felony during the five years immediately preceding the filing of the applicant's ~~his~~ application;
- (7) the applicant is not of good moral character or the applicant's ~~his~~ reputation for being a peaceable, law-

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abiding citizen in the community where the applicant ~~[he]~~ resides is bad; or

(8) as to a corporation, it is not incorporated under the laws of this state, or at least 51 percent of the corporate stock is not owned at all times by persons who individually are qualified to obtain a license, except that this subdivision does not apply to a holder of any renewal of a distributor's license which was in effect on January 1, 1953~~[-or to an applicant for a beer retailer's on-premise license for a railway car]~~.

(b) The ~~[county judge,]~~ commission~~[-or administrator]~~ shall deny an application for ~~[refuse to approve or issue]~~ an original retail dealer's or retail dealer's on-premise license unless the applicant for the license files with the application a certificate issued by the comptroller of public accounts stating that the applicant holds, or has applied for and satisfies all legal requirements for the issuance of, a sales tax permit for the place of business for which the license is sought.

(c) The ~~[county judge,]~~ commission~~[-or administrator]~~ shall deny ~~[refuse to approve or issue]~~ for a period of one year an application for a retail dealer's on-premise license or a wine and beer retailer's permit for a premises where a license or permit has been canceled during the preceding 12 months as a result of a shooting, stabbing, or other violent act, or as a result of an offense involving drugs, prostitution, or trafficking of persons.

(d) The ~~[county judge,]~~ commission~~[-or administrator]~~ shall deny an application for ~~[refuse to approve or issue]~~ a license of ~~[to]~~ a person convicted of an offense under Section 101.76 for a period of five years from the date of the conviction.

(c) Effective September 1, 2021, Section 61.42(c), Alcoholic Beverage Code, is amended to read as follows:

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(c) The [~~county judge,~~] commission[~~, or administrator~~] shall deny [~~refuse to approve or issue~~] for a period of one year an application for a retail dealer's on-premise license or a wine and malt beverage [~~beer~~] retailer's permit for a premises where a license or permit has been canceled during the preceding 12 months as a result of a shooting, stabbing, or other violent act, or as a result of an offense involving drugs, prostitution, or trafficking of persons.

SECTION 178. Effective December 31, 2020, the heading to Section 61.421, Alcoholic Beverage Code, is amended to read as follows:

Sec. 61.421. DENIAL [~~REFUSAL~~] OF LICENSE AUTHORIZING ON-PREMISES CONSUMPTION.

SECTION 179. Effective December 31, 2020, Section 61.421(b), Alcoholic Beverage Code, is amended to read as follows:

(b) The commission [~~or administrator, with or without a hearing, or the county judge,~~] shall deny an application for [~~refuse to issue or approve~~] an original or renewal license authorizing on-premises consumption of alcoholic beverages if the commission[~~, administrator, or county judge~~] has reasonable grounds to believe and finds that, during the three years preceding the date the license application was filed, a license or permit previously held under this code by the applicant, a person who owns the premises for which the license is sought, or an officer of a person who owns the premises for which the license is sought was canceled or not

SENATE VERSION (IE)

SECTION 179. Same as House version.

SECTION 180. Same as House version.

CONFERENCE

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renewed as a result of a shooting, stabbing, or other violent act.

SECTION 180. Section 61.421(c), Alcoholic Beverage Code, is amended to read as follows:

(c) This section does not apply to the issuance of an original or renewal license authorizing on-premises consumption for a location that holds a food and beverage certificate but does not hold a retailer late hours certificate [~~license~~].

SECTION 181. Same as House version.

SECTION 181. Effective December 31, 2020, Section 61.43, Alcoholic Beverage Code, is amended to read as follows:

Sec. 61.43. DISCRETIONARY GROUNDS FOR DENIAL [~~REFUSAL~~]: DISTRIBUTOR OR RETAILER. The commission [~~county judge~~] may deny [~~refuse to approve~~] an application for a license as a distributor or retailer if the commission [~~county judge~~] has reasonable grounds to believe and finds that:

- (1) the applicant has been finally convicted in a court of competent jurisdiction for the violation of a provision of this code during the two years immediately preceding the filing of an application;
- (2) five years has not elapsed since the termination, by pardon or otherwise, of a sentence imposed for conviction of a felony;
- (3) the applicant has violated or caused to be violated a provision of this code or a rule or regulation of the commission, for which a suspension was not imposed,

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during the 12-month period immediately preceding the filing of an application;

(4) the applicant failed to answer or falsely or incorrectly answered a question in an original or renewal application;

(5) the applicant for a retail dealer's license does not have an adequate building available at the address for which the license is sought before conducting any activity authorized by the license;

(6) the applicant or a person with whom the applicant is residentially domiciled had an interest in a license or permit which was cancelled or revoked within the 12-month period immediately preceding the filing of an application;

(7) the applicant failed or refused to furnish a true copy of the application to the commission's district office in the district in which the premises sought to be licensed are located;

(8) the applicant for a retail dealer's license will conduct business in a manner contrary to law or in a place or manner conducive to a violation of the law; or

(9) the place, building, or premises for which the license is sought was used for selling alcoholic beverages in violation of the law at any time during the six months immediately preceding the filing of the application or was used, operated, or frequented during that time for a purpose or in a manner which was lewd, immoral, offensive to public decency, or contrary to this code.

SECTION 182. (a) Effective December 31, 2020, Section 61.44, Alcoholic Beverage Code, is amended to read as follows:

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SECTION 183. Same as House version.

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Sec. 61.44. DENIAL [~~REFUSAL~~] OF DISTRIBUTOR'S OR RETAILER'S LICENSE: PROHIBITED INTERESTS.

(a) The commission [~~county judge~~] may deny [~~refuse to approve~~] an application for a license as a distributor or retailer if the commission [~~he~~] has reasonable grounds to believe and finds that:

(1) the applicant has a financial interest in an establishment authorized to sell distilled spirits, except as authorized in Section 22.06, 24.05, or 102.05 [~~of this code~~];

(2) a person engaged in the business of selling distilled spirits has a financial interest in the business to be conducted under the license sought by the applicant, except as authorized in Section 22.06, 24.05, or 102.05 [~~of this code~~];

or

(3) the applicant is residentially domiciled with a person who has a financial interest in an establishment engaged in the business of selling distilled spirits, except as authorized in Section 22.06, 24.05, or 102.05 [~~of this code~~].

(b) The commission [~~county judge~~] may deny [~~refuse to approve~~] an application for a retail dealer's license if the commission [~~he~~] has reasonable grounds to believe and finds that:

(1) the applicant has a real interest in the business or premises of the holder of a manufacturer's or distributor's license; or

(2) the premises sought to be licensed are owned in whole or part by the holder of a manufacturer's or distributor's license.

(b) Effective September 1, 2021, Section 61.44(b), Alcoholic Beverage Code, is amended to read as follows:

(b) The commission [~~county judge~~] may deny [~~refuse to approve~~] an application for a retail dealer's license if the

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commission [~~he~~] has reasonable grounds to believe and finds that:

- (1) the applicant has a real interest in the business or premises of the holder of a brewer's [~~manufacturer's~~] or distributor's license; or
- (2) the premises sought to be licensed are owned in whole or part by the holder of a brewer's [~~manufacturer's~~] or distributor's license.

SECTION 183. (a) Effective December 31, 2020, Section 61.45, Alcoholic Beverage Code, is amended to read as follows:

Sec. 61.45. DENIAL [~~REFUSAL~~] OF RETAILER'S OR DISTRIBUTOR'S LICENSE: PROHIBITED INTEREST IN PREMISES. (a) The commission [~~county judge~~] may deny [~~refuse to approve~~] an application for a retail dealer's license if the commission [~~he~~] has reasonable grounds to believe and finds that:

- (1) the applicant owns or has an interest in the premises covered by a manufacturer's or distributor's license; or
 - (2) the holder of a manufacturer's or distributor's license owns or has an interest in the premises sought to be licensed.
- (b) The commission [~~county judge~~] may deny [~~refuse to approve~~] an application for a distributor's license if the commission [~~he~~] has reasonable grounds to believe and finds that:
- (1) the applicant owns or has an interest in the premises covered by a retail dealer's license; or
 - (2) a holder of a retail dealer's license owns or has an interest in the premises sought to be licensed.

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CONFERENCE

SECTION 184. Same as House version.

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(b) Effective September 1, 2021, Section 61.45(a), Alcoholic Beverage Code, is amended to read as follows:

(a) The commission [~~county judge~~] may deny [~~refuse to approve~~] an application for a retail dealer's license if the commission [~~he~~] has reasonable grounds to believe and finds that:

(1) the applicant owns or has an interest in the premises covered by a brewer's [~~manufacturer's~~] or distributor's license; or

(2) the holder of a brewer's [~~manufacturer's~~] or distributor's license owns or has an interest in the premises sought to be licensed.

SECTION 184. The heading to Section 61.46, Alcoholic Beverage Code, is amended to read as follows:

Sec. 61.46. BREWER'S [~~MANUFACTURER'S~~] LICENSE: GROUNDS FOR DENIAL [~~REFUSAL~~].

SECTION 185. Section 61.46(a), Alcoholic Beverage Code, is amended to read as follows:

(a) This section applies to any applicant for a brewer's [~~manufacturer's~~] license, including a domestic corporation or foreign corporation qualified to do business in Texas, administrator or executor, or other person. This section does not apply to a holder of a subsequent renewal of a [~~manufacturer's~~] license which was in effect on January 1, 1953, that authorized the license holder to manufacture a type of malt beverage.

SENATE VERSION (IE)

SECTION 185. Same as House version.

SECTION 186. Same as House version.

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SECTION 186. (a) Effective December 31, 2020, Section 61.46(b), Alcoholic Beverage Code, is amended to read as follows:

(b) The commission [~~county judge~~] shall deny [~~refuse to approve~~] an application for a manufacturer's license if the commission [~~he~~] has reasonable grounds to believe and finds that the applicant has failed to state under oath that it will engage in the business of brewing and packaging beer in this state within three years after the issuance of its original license in sufficient quantities as to make its operation that of a bona fide brewing manufacturer.

(b) Effective September 1, 2021, Section 61.46(b), Alcoholic Beverage Code, is amended to read as follows:

(b) The commission [~~county judge~~] shall deny [~~refuse to approve~~] an application for a brewer's [~~manufacturer's~~] license if the commission [~~he~~] has reasonable grounds to believe and finds that the applicant has failed to state under oath that it will engage in the business of brewing and packaging malt beverages [~~beer~~] in this state within three years after the issuance of its original license in sufficient quantities as to make its operation that of a bona fide brewer [~~brewing manufacturer~~].

SECTION 187. Effective December 31, 2020, Section 61.48, Alcoholic Beverage Code, is amended to read as follows:

Sec. 61.48. RENEWAL APPLICATION. An application to renew a license shall be filed with the commission not [~~no~~] earlier than the 30th day [~~30 days~~] before the date the license expires but not after it expires. The application shall be signed by the applicant and shall contain complete

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SECTION 187. Same as House version.

SECTION 188. Same as House version.

CONFERENCE

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information required by the commission showing that the applicant is not disqualified from holding a license. The application shall be accompanied by the appropriate license fee. ~~An~~ [No] applicant for a renewal may ~~not~~ be required to pay any fee other than license fees and the filing fee ~~[unless the applicant is required by the commission or administrator to submit to a renewal hearing before the county judge].~~

SECTION 188. Effective December 31, 2020, Section 61.49, Alcoholic Beverage Code, is amended to read as follows:

Sec. 61.49. ACTION ON RENEWAL APPLICATION BY COMMISSION; REFUND OF FEE. When the renewal application has been filed in accordance with Section 61.48, the commission shall follow the procedure under ~~[or administrator may in its discretion issue a renewal license or if an application for a renewal is protested reject the application and require the applicant to file an application with the county judge and submit to a hearing as is required by]~~ Section 11.43 ~~[61.31]~~.

SECTION 189. Effective December 31, 2020, Section 61.50, Alcoholic Beverage Code, is amended to read as follows:

Sec. 61.50. RENEWAL OF RETAIL DEALER'S LICENSE: GROUNDS FOR DENIAL ~~[REFUSAL]~~. The commission ~~[or administrator, without a hearing,]~~ may deny an application for ~~[refuse to issue]~~ a renewal of a retail dealer's license and require the applicant to make an original application if it is found that circumstances exist which

SENATE VERSION (IE)

SECTION 189. Same as House version.

SECTION 190. Same as House version.

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would warrant the denial [~~refusal~~] of an original application under any pertinent provision of this code.

SECTION 190. (a) Effective September 1, 2019, Section 61.71(a), Alcoholic Beverage Code, is amended to read as follows:

(a) The commission or administrator may suspend for not more than 60 days or cancel an original or renewal retail dealer's on- or off-premise license if it is found, after notice and hearing, that the licensee:

(1) violated a provision of this code or a rule of the commission during the existence of the license sought to be cancelled or suspended or during the immediately preceding license period;

(2) was finally convicted for violating a penal provision of this code;

(3) was finally convicted of a felony while holding an original or renewal license;

(4) made a false statement or a misrepresentation in the licensee's original application or a renewal application;

(5) with criminal negligence sold, served, or delivered an alcoholic beverage to a minor;

(6) sold, served, or delivered an alcoholic beverage to an intoxicated person;

(7) sold, served, or delivered an alcoholic beverage at a time when its sale is prohibited;

(8) entered or offered to enter an agreement, condition, or system which would constitute the sale or possession of alcoholic beverages on consignment;

(9) possessed on the licensed premises, or on adjacent premises directly or indirectly under the licensee's control,

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SECTION 191. Same as House version.

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an alcoholic beverage not authorized to be sold on the licensed premises, or permitted an agent, servant, or employee to do so, except as permitted by Section 22.06, 24.05, or 102.05;

(10) permitted a person on the licensed premises to engage in conduct which is lewd, immoral, or offensive to public decency;

(11) employed a person under 18 years of age to sell, handle, or dispense beer, or to assist in doing so, in an establishment where beer is sold for on-premises consumption;

(12) conspired with a person to violate Section 101.41-101.43, 101.68, 102.11-102.15, 104.04, 108.01, or 108.04-108.06, or a rule promulgated under Section 5.40, or accepted a benefit from an act prohibited by any of these sections or rules;

(13) refused to permit or interfered with an inspection of the licensed premises by an authorized representative of the commission or a peace officer;

(14) permitted the use or display of the licensee's license in the conduct of a business for the benefit of a person not authorized by law to have an interest in the license;

(15) maintained blinds or barriers at the licensee's place of business in violation of this code;

(16) conducted the licensee's business in a place or manner which warrants the cancellation or suspension of the license based on the general welfare, health, peace, morals, safety, and sense of decency of the people;

(17) consumed an alcoholic beverage or permitted one to be consumed on the licensed premises at a time when the consumption of alcoholic beverages is prohibited by this code;

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- (18) purchased beer for the purpose of resale from a person other than the holder of a manufacturer's or distributor's license;
- (19) acquired an alcoholic beverage for the purpose of resale from another retail dealer of alcoholic beverages;
- (20) owned an interest of any kind in the business or premises of the holder of a distributor's license;
- (21) purchased, sold, offered for sale, distributed, or delivered an alcoholic beverage, or consumed an alcoholic beverage or permitted one to be consumed on the licensed premises while the licensee's license was under suspension;
- (22) purchased, possessed, stored, sold, or offered for sale beer in or from an original package bearing a brand or trade name of a manufacturer other than the brand or trade name shown on the container;
- (23) has developed an incapacity that prevents or could prevent the license holder from managing the license holder's establishment with reasonable skill, competence, and safety to the public [~~habitually uses alcoholic beverages to excess, is mentally incompetent, or is physically unable to manage the licensee's establishment~~];
- (24) imported beer into this state except as authorized by Section 107.07;
- (25) occupied premises in which the holder of a manufacturer's or distributor's license had an interest of any kind;
- (26) knowingly permitted a person who had an interest in a permit or license which was cancelled for cause to sell, handle, or assist in selling or handling alcoholic beverages on the licensed premises within one year after the cancellation;

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(27) was financially interested in a place of business engaged in the selling of distilled spirits or permitted a person having an interest in that type of business to have a financial interest in the business authorized by the licensee's license, except as permitted by Section 22.06, 24.05, or 102.05;

(28) is residentially domiciled with or related to a person engaged in selling distilled spirits, except as permitted by Section 22.06, 24.05, or 102.05, so that there is a community of interests which the commission or administrator finds contrary to the purposes of this code;

(29) is residentially domiciled with or related to a person whose license has been cancelled within the preceding 12 months so that there is a community of interests which the commission or administrator finds contrary to the purposes of this code; or

(30) failed to promptly report to the commission a breach of the peace occurring on the licensee's licensed premises.

(b) Effective September 1, 2021, Section 61.71(a), Alcoholic Beverage Code, is amended to read as follows:

(a) The commission or administrator may suspend for not more than 60 days or cancel an original or renewal retail dealer's on- or off-premise license if it is found, after notice and hearing, that the licensee:

(1) violated a provision of this code or a rule of the commission during the existence of the license sought to be cancelled or suspended or during the immediately preceding license period;

(2) was finally convicted for violating a penal provision of this code;

(3) was finally convicted of a felony while holding an original or renewal license;

SENATE VERSION (IE)

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- (4) made a false statement or a misrepresentation in the licensee's original application or a renewal application;
- (5) with criminal negligence sold, served, or delivered an alcoholic beverage to a minor;
- (6) sold, served, or delivered an alcoholic beverage to an intoxicated person;
- (7) sold, served, or delivered an alcoholic beverage at a time when its sale is prohibited;
- (8) entered or offered to enter an agreement, condition, or system which would constitute the sale or possession of alcoholic beverages on consignment;
- (9) possessed on the licensed premises, or on adjacent premises directly or indirectly under the licensee's control, an alcoholic beverage not authorized to be sold on the licensed premises, or permitted an agent, servant, or employee to do so, except as permitted by Section 22.06, 24.05, or 102.05;
- (10) permitted a person on the licensed premises to engage in conduct which is lewd, immoral, or offensive to public decency;
- (11) employed a person under 18 years of age to sell, handle, or dispense malt beverages [~~beer~~], or to assist in doing so, in an establishment where malt beverages are [~~beer is~~] sold for on-premises consumption;
- (12) conspired with a person to violate Section 101.41-101.43, 101.68, 102.11-102.15, 104.04, 108.01, or 108.04-108.06, or a rule promulgated under Section 5.40, or accepted a benefit from an act prohibited by any of these sections or rules;
- (13) refused to permit or interfered with an inspection of the licensed premises by an authorized representative of the commission or a peace officer;

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- (14) permitted the use or display of the licensee's license in the conduct of a business for the benefit of a person not authorized by law to have an interest in the license;
- (15) maintained blinds or barriers at the licensee's place of business in violation of this code;
- (16) conducted the licensee's business in a place or manner which warrants the cancellation or suspension of the license based on the general welfare, health, peace, morals, safety, and sense of decency of the people;
- (17) consumed an alcoholic beverage or permitted one to be consumed on the licensed premises at a time when the consumption of alcoholic beverages is prohibited by this code;
- (18) purchased malt beverages [~~beer~~] for the purpose of resale from a person other than the holder of a brewer's [~~manufacturer's~~] or distributor's license;
- (19) acquired an alcoholic beverage for the purpose of resale from another retail dealer of alcoholic beverages;
- (20) owned an interest of any kind in the business or premises of the holder of a distributor's license;
- (21) purchased, sold, offered for sale, distributed, or delivered an alcoholic beverage, or consumed an alcoholic beverage or permitted one to be consumed on the licensed premises while the licensee's license was under suspension;
- (22) purchased, possessed, stored, sold, or offered for sale malt beverages [~~beer~~] in or from an original package bearing a brand or trade name of a manufacturer other than the brand or trade name shown on the container;
- (23) has developed an incapacity that prevents or could prevent the license holder from managing the license holder's establishment with reasonable skill, competence, and safety to the public [~~habitually uses alcoholic beverages to excess;~~

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~~is mentally incompetent, or is physically unable to manage the licensee's establishment];~~

(24) imported malt beverages ~~[beer]~~ into this state except as authorized by Section 107.07;

(25) occupied premises in which the holder of a brewer's ~~[manufacturer's]~~ or distributor's license had an interest of any kind;

(26) knowingly permitted a person who had an interest in a permit or license which was cancelled for cause to sell, handle, or assist in selling or handling alcoholic beverages on the licensed premises within one year after the cancellation;

(27) was financially interested in a place of business engaged in the selling of distilled spirits or permitted a person having an interest in that type of business to have a financial interest in the business authorized by the licensee's license, except as permitted by Section 22.06, 24.05, or 102.05;

(28) is residentially domiciled with or related to a person engaged in selling distilled spirits, except as permitted by Section 22.06, 24.05, or 102.05, so that there is a community of interests which the commission or administrator finds contrary to the purposes of this code;

(29) is residentially domiciled with or related to a person whose license has been cancelled within the preceding 12 months so that there is a community of interests which the commission or administrator finds contrary to the purposes of this code; or

(30) failed to promptly report to the commission a breach of the peace occurring on the licensee's licensed premises.

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SECTION 191. Effective December 31, 2020, Section 61.712, Alcoholic Beverage Code, is amended to read as follows:

Sec. 61.712. GROUND FOR CANCELLATION OR SUSPENSION: SALES TAX. The commission ~~or administrator~~ may deny an application for a renewal license ~~refuse to renew~~ or, after notice and hearing, the commission or administrator may suspend for not more than 60 days or cancel a license if the commission or administrator finds that the licensee:

- (1) no longer holds a sales tax permit, if required, for the place of business covered by the license; or
- (2) is shown on the records of the comptroller of public accounts as being subject to a final determination of taxes due and payable under the Limited Sales, Excise and Use Tax Act (Chapter 151, Tax Code), or is shown on the records of the comptroller of public accounts as being subject to a final determination of taxes due and payable under Chapter 321, Tax Code.

SECTION 192. (a) Effective December 31, 2020, Section 61.721, Alcoholic Beverage Code, is amended to read as follows:

Sec. 61.721. CANCELLATION OF PERMIT OR LICENSE IN CERTAIN MUNICIPALITIES. The commission or administrator may cancel an original or a renewal wine and beer retailer's permit or retail dealer's on-premise license and the commission may deny an application for ~~refuse to issue~~ any new alcoholic beverage permit or license for the same premises for one year after the date of cancellation if:

SENATE VERSION (IE)

SECTION 192. Same as House version.

SECTION 193. Same as House version.

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(1) the chief of police of the city or the sheriff of the county in which the premises are located has submitted a sworn statement to the commission stating specific allegations that the place or manner in which the permittee or licensee conducts its business endangers the general welfare, health, peace, morals, or safety of the community and further stating that there is a reasonable likelihood that such conduct would continue at the same location under another licensee or permittee; and

(2) the commission ~~or administrator~~ finds, after notice and hearing within the county where the premises are located, that the place or manner in which the permittee or licensee conducts its business does in fact endanger the general welfare, health, peace, morals, or safety of the community and that there is a reasonable likelihood that such conduct would continue at the same location under another licensee or permittee.

(b) Effective September 1, 2021, Section 61.721, Alcoholic Beverage Code, is amended to read as follows:

Sec. 61.721. CANCELLATION OF PERMIT OR LICENSE IN CERTAIN MUNICIPALITIES. The commission or administrator may cancel an original or a renewal wine and malt beverage ~~beer~~ retailer's permit or retail dealer's on-premise license and the commission may deny an application for ~~refuse to issue~~ any new alcoholic beverage permit or license for the same premises for one year after the date of cancellation if:

(1) the chief of police of the city or the sheriff of the county in which the premises are located has submitted a sworn statement to the commission stating specific allegations that the place or manner in which the permittee or licensee conducts its business endangers the general welfare, health,

SENATE VERSION (IE)

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peace, morals, or safety of the community and further stating that there is a reasonable likelihood that such conduct would continue at the same location under another licensee or permittee; and

(2) the commission ~~or administrator~~ finds, after notice and hearing within the county where the premises are located, that the place or manner in which the permittee or licensee conducts its business does in fact endanger the general welfare, health, peace, morals, or safety of the community and that there is a reasonable likelihood that such conduct would continue at the same location under another licensee or permittee.

SECTION 193. Section 61.73, Alcoholic Beverage Code, is amended to read as follows:

Sec. 61.73. RETAIL DEALER: CREDIT PURCHASE OR DISHONORED CHECK. (a) The commission or administrator may suspend for not more than 60 days or cancel an original or renewal retail dealer's on- or off-premise license if it is found, after notice and hearing, that the licensee purchased malt beverages ~~[beer]~~ or the containers or original packages in which they are ~~[it is]~~ contained or packaged except by cash payment to the seller on or before delivery. No holder of either type of license may use a maneuver, device, subterfuge, or shift by which credit is accepted, including payment or attempted payment by a postdated check or draft. Credit for the return of unbroken or undamaged containers or original packages previously paid for by the purchaser may be accepted as cash by the seller in an amount not more than the amount originally paid for them by the purchaser.

SENATE VERSION (IE)

SECTION 194. Same as House version.

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(b) The commission or administrator may suspend for not more than 60 days or cancel an original or renewal retail dealer's on- or off-premise license if it is found, after notice and hearing, that the licensee gave a check, as maker or endorser, or a draft, as drawer or endorser, as full or partial payment for malt beverages [~~beer~~] or the containers or packages in which they are [~~it is~~] contained or packaged, which is dishonored when presented for payment.

SECTION 194. (a) Effective September 1, 2019, Section 61.74(a), Alcoholic Beverage Code, is amended to read as follows:

(a) The commission or administrator may suspend for not more than 60 days or cancel an original or renewal general[~~or local,~~] or branch distributor's license if it is found, after notice and hearing, that the licensee:

- (1) violated a provision of this code or a rule of the commission during the existence of the license sought to be cancelled or suspended or during the immediately preceding license period;
- (2) was finally convicted for violating a penal provision of this code;
- (3) was finally convicted of a felony while holding an original or renewal license;
- (4) violated Section 101.41-101.43, 101.68, 102.11-102.15, 104.04, 108.01, or 108.04-108.06 [~~of this code~~], or a rule or regulation promulgated under Section 5.40 [~~of this code~~];
- (5) failed to comply with a requirement of the commission relating to the keeping of records or making of reports;
- (6) failed to pay any tax due the state on any beer the licensee [~~he~~] sold, stored, or transported;

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SECTION 195. Same as House version.

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- (7) refused to permit or interfered with an inspection of the licensee's ~~[his licensed]~~ premises, vehicles, books, or records by an authorized representative of the commission;
- (8) consummated a sale of beer outside the county or counties in which the licensee ~~[he]~~ was authorized to sell beer under the ~~[by his]~~ license;
- (9) purchased, sold, offered for sale, distributed, or delivered beer while the ~~[his]~~ license was under suspension;
- (10) permitted the use of the licensee's ~~[his]~~ license in the operation of a business conducted for the benefit of a person not authorized by law to have an interest in the business;
- (11) made a false or misleading representation or statement in the licensee's ~~[his]~~ original application or a renewal application;
- (12) has developed an incapacity that prevents or could prevent the license holder from managing the license holder's establishment with reasonable skill, competence, and safety to the public ~~[habitually uses alcoholic beverages to excess, is mentally incompetent, or is physically unable to manage his establishment]~~;
- (13) misrepresented any beer sold by the licensee ~~[him]~~ to a retailer or to the public;
- (14) with criminal negligence sold or delivered beer to a minor; or
- (15) purchased, possessed, stored, sold, or offered for sale beer in an original package bearing a brand or trade name of a manufacturer other than the brand or trade name of the manufacturer shown on the container.
- (b) Effective September 1, 2021, Section 61.74(a), Alcoholic Beverage Code, is amended to read as follows:
- (a) The commission or administrator may suspend for not more than 60 days or cancel an original or renewal general[-

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~~local,~~] or branch distributor's license if it is found, after notice and hearing, that the licensee:

- (1) violated a provision of this code or a rule of the commission during the existence of the license sought to be cancelled or suspended or during the immediately preceding license period;
- (2) was finally convicted for violating a penal provision of this code;
- (3) was finally convicted of a felony while holding an original or renewal license;
- (4) violated Section 101.41-101.43, 101.68, 102.11-102.15, 104.04, 108.01, or 108.04-108.06 ~~[of this code]~~, or a rule or regulation promulgated under Section 5.40 ~~[of this code]~~;
- (5) failed to comply with a requirement of the commission relating to the keeping of records or making of reports;
- (6) failed to pay any tax due the state on any malt beverages the licensee ~~[beer he]~~ sold, stored, or transported;
- (7) refused to permit or interfered with an inspection of the licensee's ~~[his licensed]~~ premises, vehicles, books, or records by an authorized representative of the commission;
- (8) consummated a sale of malt beverages ~~[beer]~~ outside the county or counties in which the licensee ~~[he]~~ was authorized to sell malt beverages under the ~~[beer by his]~~ license;
- (9) purchased, sold, offered for sale, distributed, or delivered malt beverages ~~[beer]~~ while the ~~[his]~~ license was under suspension;
- (10) permitted the use of the licensee's ~~[his]~~ license in the operation of a business conducted for the benefit of a person not authorized by law to have an interest in the business;
- (11) made a false or misleading representation or statement in the licensee's ~~[his]~~ original application or a renewal application;

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(12) ~~has developed an incapacity that prevents or could prevent the license holder from managing the license holder's establishment with reasonable skill, competence, and safety to the public [habitually uses alcoholic beverages to excess, is mentally incompetent, or is physically unable to manage his establishment];~~

(13) misrepresented any malt beverages ~~[beer]~~ sold by the licensee ~~[him]~~ to a retailer or to the public;

(14) with criminal negligence sold or delivered malt beverages ~~[beer]~~ to a minor; or

(15) purchased, possessed, stored, sold, or offered for sale malt beverages ~~[beer]~~ in an original package bearing a brand or trade name of a brewer ~~[manufacturer]~~ other than the brand or trade name of the brewer ~~[manufacturer]~~ shown on the container.

SECTION 195. Section 61.75, Alcoholic Beverage Code, is amended to read as follows:

Sec. 61.75. SUSPENSION OF BREWER'S ~~[MANUFACTURER'S]~~ LICENSE. If a brewer ~~[manufacturer]~~ violates a provision of this code or a rule of the commission, the commission or administrator may order the brewer ~~[manufacturer]~~ to cease and desist from the violation and may suspend its license, after notice and hearing, until the licensee obeys the order.

SECTION 196. Effective December 31, 2020, Section 61.79, Alcoholic Beverage Code, is amended to read as follows:

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SECTION 196. Same as House version.

SECTION 197. Same as House version.

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Sec. 61.79. NOTICE OF HEARING: DENIAL [~~REFUSAL~~], CANCELLATION, OR SUSPENSION OF LICENSE. Section 11.63 applies [~~of this code relates~~] to notice of a hearing for the denial [~~refusal~~], cancellation, or suspension of a license.

SECTION 197. Effective December 31, 2020, Section 61.81, Alcoholic Beverage Code, is amended to read as follows:

Sec. 61.81. APPEAL FROM CANCELLATION OR [~~]~~ SUSPENSION [~~, OR REFUSAL~~] OF LICENSE. Section 11.67 [~~of this code~~] applies to an appeal from a decision or order of the commission or administrator [~~refusing~~] cancelling [~~]~~ or suspending a license.

SECTION 198. Section 61.84(a), Alcoholic Beverage Code, is amended to read as follows:

(a) A [~~No~~] person whose license is cancelled may not sell or offer for sale malt beverages [~~beer~~] for a period of one year immediately following the cancellation, unless the order of cancellation is superseded pending trial or unless the person [~~he~~] prevails in a final judgment rendered on an appeal prosecuted in accordance with this code.

SECTION 199. Section 61.85(a), Alcoholic Beverage Code, is amended to read as follows:

(a) A person whose license is cancelled or forfeited may, within 30 days of the cancellation or forfeiture, make a bulk

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SECTION 198. Same as House version.

SECTION 199. Same as House version.

SECTION 200. Same as House version.

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sale or disposal of any stock of malt beverages [~~beer~~] on hand at the time of the cancellation or forfeiture.

SECTION 200. Effective September 1, 2019, Section 61.86, Alcoholic Beverage Code, is amended to read as follows:

Sec. 61.86. DISCIPLINE FOR ACTIONS OF AGENT; RECORDS RETENTION. (a) The commission or

administrator may suspend or revoke the license of a person who is the employer of or represented by [~~the holder of~~] an agent [~~agent's beer license~~] as described by Section 73.01 or otherwise discipline the person based on an act or omission of [~~the holder of~~] the agent [~~agent's beer license~~] only if an individual employed by the person in a supervisory position:

- (1) was directly involved in the act or omission of the agent [~~holder of the agent's beer license~~];
- (2) had notice or knowledge of the act or omission; or
- (3) failed to take reasonable steps to prevent the act or omission.

(b) The holder of a license who is represented by an agent shall maintain records relating to the agent's activities, including any representation agreement, employment records, or similar documents for not less than four years from the date the record is created.

SECTION 201. Effective September 1, 2019, Section 61.87, Alcoholic Beverage Code, is amended to read as follows:

Sec. 61.87. AFFIRMATION OF COMPLIANCE. A person who holds a license under Chapter 64[~~,65,~~] or 66 may not be subject to an administrative sanction for selling or delivering

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SECTION 201. Same as House version.

SECTION 202. Same as House version.

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an alcoholic beverage to a retailer not authorized to purchase and receive the alcoholic beverage if the license holder:

- (1) reasonably believes that the retailer is authorized to purchase and receive that type of alcoholic beverage; and
- (2) obtains from the retailer at the time of delivery a written affirmation, which may be printed or stamped on a sales invoice evidencing the sale or delivery of alcoholic beverages by the license holder, that the retailer is authorized to purchase and receive the type of alcoholic beverage sold and delivered by the license holder.

SECTION 202. The heading to Chapter 62, Alcoholic Beverage Code, is amended to read as follows:

CHAPTER 62. BREWER'S [~~MANUFACTURER'S~~]
LICENSE

SECTION 203. Section 62.01, Alcoholic Beverage Code, is amended to read as follows:

Sec. 62.01. AUTHORIZED ACTIVITIES. (a) The holder of a brewer's [~~manufacturer's~~] license may:

- (1) [~~manufacture or~~] brew malt beverages [~~beer~~] and distribute and sell the malt beverages [~~it~~] in this state to the holders of general[~~, local,~~] and branch distributor's licenses and to qualified persons outside the state;
- (2) dispense malt beverages [~~beer~~] for consumption on the premises;
- (3) bottle and can malt beverages [~~beer~~] and pack malt beverages [~~it~~] into containers for resale in this state, regardless of whether the malt beverages are [~~beer is~~]

SENATE VERSION (IE)

SECTION 203. Same as House version.

SECTION 204. Same as House version.

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~~manufactured or~~ brewed in this state or in another state and imported into Texas;

(4) conduct samplings of malt beverages [~~beer~~], including tastings, at a retailer's premises; and

(5) enter into an alternating brewery proprietorship or contract brewing arrangement as provided by Section 62.14.

(b) An agent or employee of the holder of a brewer's [~~manufacturer's~~] license may open, touch, or pour malt beverages [~~beer~~], make a presentation, or answer questions at a sampling event.

No equivalent provision.

SENATE VERSION (IE)

SECTION 205. (a) Effective September 1, 2019, Chapter 62, Alcoholic Beverage Code, is amended by adding Section 62.015 to read as follows:

Sec. 62.015. IMPORTATION OF BEER, ALE, AND MALT LIQUOR FOR MANUFACTURE. (a) The holder of a manufacturer's license may:

(1) import for manufacturing purposes:

(A) beer from the holder of a nonresident manufacturer's license; and

(B) ale and malt liquor from a holder of a nonresident brewer's permit; and

(2) mix and blend beer, ale, and malt liquor imported under Subdivision (1) and bottle and sell the resultant product.

(b) The state tax on beer, ale, and malt liquor imported for manufacturing purposes does not accrue until:

(1) the beer, ale, or malt liquor has been used for manufacturing purposes; and

(2) the resultant product has been placed in containers for sale.

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CONFERENCE

(b) Effective September 1, 2021, Chapter 62, Alcoholic Beverage Code, is amended by adding Section 62.015 to read as follows:

Sec. 62.015. IMPORTATION OF MALT BEVERAGES FOR MANUFACTURE. (a) The holder of a brewer's license may:

(1) import for manufacturing purposes malt beverages from the holder of a nonresident brewer's license; and

(2) mix and blend malt beverages imported under Subdivision (1) and bottle and sell the resultant product.

(b) The state tax on malt beverages imported for manufacturing purposes does not accrue until:

(1) the malt beverages have been used for manufacturing purposes; and

(2) the resultant product has been placed in containers for sale.

(c) If a conflict exists between this Act and S.B. 928, Acts of the 86th Legislature, Regular Session, 2019, this Act controls without regard to the relative dates of enactment.

SECTION 204. (a) Effective December 31, 2020, Section 62.03(a), Alcoholic Beverage Code, is amended to read as follows:

(a) Except as provided by Section 62.14, each applicant for a manufacturer's license shall file with an application a sworn statement that the applicant will be engaged in the business of brewing and packaging beer in this state in quantities sufficient to make the applicant's operation a bona fide brewing manufacturer within three years of the issuance of the original license. If the applicant is a corporation, the statement must be signed by one of its principal officers. The

SECTION 206. Same as House version.

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commission[~~administrator, or county judge~~] may not approve an application unless it is accompanied by the required sworn statement.

(b) Effective September 1, 2021, Section 62.03, Alcoholic Beverage Code, is amended to read as follows:

Sec. 62.03. STATEMENT OF INTENTION. (a) Except as provided by Section 62.14, each applicant for a brewer's [~~manufacturer's~~] license shall file with an application a sworn statement that the applicant will be engaged in the business of brewing and packaging malt beverages [~~beer~~] in this state in quantities sufficient to make the applicant's operation a bona fide brewer [~~brewing manufacturer~~] within three years of the issuance of the original license. If the applicant is a corporation, the statement must be signed by one of its principal officers. The commission[~~administrator, or county judge~~] may not approve an application unless it is accompanied by the required sworn statement.

(b) This section does not apply to the holder of a [~~manufacturer's~~] license which was in effect on January 1, 1953, that authorized the license holder to manufacture a type of malt beverage.

SECTION 205. Sections 62.04(a), (b), and (c), Alcoholic Beverage Code, are amended to read as follows:

(a) A renewal of a brewer's [~~manufacturer's~~] license may not be denied during the two-year period following the issuance of the original license on the ground that the licensee has not brewed and packaged malt beverages [~~beer~~] in this state if the licensee is engaged in good faith in constructing a

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SECTION 207. Same as House version.

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brewing plant on the licensed premises or is engaged in one of the following preparatory stages of construction:

- (1) preliminary engineering;
- (2) preparing drawings and specifications;
- (3) conducting engineering, architectural, or equipment studies; or
- (4) preparing for the taking of bids from contractors.

(b) During the three-year period following the issuance of a brewer's [~~manufacturer's~~] license, as long as the licensee is engaged in construction or in a preliminary stage of construction enumerated in Subsection (a) [~~of this section~~], the commission shall issue each renewal license to take effect immediately on the expiration of the expiring license and shall not require the licensee to make an original application.

(c) After two years and 11 months has expired following the issuance of an original brewer's [~~manufacturer's~~] license, the commission may [~~shall~~] not issue a renewal license if it finds that the licensee has not complied with the licensee's [~~his~~] sworn statement filed with the [~~his~~] original application or that the licensee [~~he~~] has not begun construction of a plant or initiated any of the preliminary stages of construction enumerated in Subsection (a) unless the commission also finds that the licensee [~~applicant~~] has been prevented from doing so by causes beyond the licensee's [~~his~~] reasonable control. If the commission finds that the licensee has been prevented from complying by causes beyond the licensee's [~~his~~] reasonable control, it may grant one additional renewal for the licensee to comply with the terms of the licensee's [~~his~~] sworn statement. Otherwise, the commission shall deny the renewal application and may not grant a subsequent

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original application by the licensee for a period of two years following the date of the denial.

SECTION 206. Section 62.05(a), Alcoholic Beverage Code, is amended to read as follows:

(a) The holder of a brewer's [~~manufacturer's~~] license shall make and keep a record of each day's production or receipt of malt beverages [~~beer~~] and of every sale of malt beverages [~~beer~~], including the name of each purchaser. Each transaction shall be recorded on the day it occurs. The licensee shall make and keep any other records that the commission or administrator requires.

SECTION 207. Section 62.07, Alcoholic Beverage Code, is amended to read as follows:

Sec. 62.07. IMPORTATION OF MALT BEVERAGES [~~BEER~~]: CONTAINERS, USE OF TANK CARS. The holder of a brewer's [~~manufacturer's~~] license may import malt beverages [~~beer~~] into this state in barrels or other containers in accordance with the provisions of this code. A

SENATE VERSION (IE)

SECTION 208. Same as House version.

SECTION 209. (a) Effective September 1, 2019, Section 62.07, Alcoholic Beverage Code, is amended to read as follows:

Sec. 62.07. IMPORTATION OF BEER, ALE, AND MALT LIQUOR [~~: CONTAINERS, USE OF TANK CARS~~]. The holder of a manufacturer's license may import beer, ale, and malt liquor into this state in barrels or other containers in accordance with the provisions of this code. [~~No person may ship beer into the state in tank cars.~~]

(b) Effective September 1, 2021, Section 62.07, Alcoholic Beverage Code, is amended to read as follows:

Sec. 62.07. IMPORTATION OF MALT BEVERAGES [~~BEER: CONTAINERS, USE OF TANK CARS~~]. The holder of a brewer's [~~manufacturer's~~] license may import malt beverages [~~beer~~] into this state in barrels or other containers in accordance with the provisions of this code. [~~No person may ship beer into the state in tank cars.~~]

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~~Ne~~ person may not ship malt beverages ~~beer~~ into the state in tank cars.

SECTION 208. (a) Effective September 1, 2019, Section 62.08, Alcoholic Beverage Code, is amended by adding Subsection (e) to read as follows:

(e) The holder of a manufacturer's or distributor's license shall register with the commission each warehouse used by the manufacturer or distributor to store beer. The commission by rule shall determine the information that is required to register a warehouse under this subsection.

(b) Effective September 1, 2021, Section 62.08, Alcoholic Beverage Code, is amended to read as follows:

Sec. 62.08. WAREHOUSES; DELIVERY TRUCKS. (a) The holder of a brewer's ~~manufacturer's~~ or distributor's license may maintain or engage necessary warehouses for storage purposes in areas where the sale of malt beverages ~~beer~~ is lawful and may make deliveries from the warehouses without obtaining licenses for them. The licensee may not import malt beverages ~~beer~~ from outside the state directly or indirectly to an unlicensed warehouse.

(b) A warehouse or railway car in which malt beverages are served, orders for the sale of malt beverages ~~beer~~ are taken, or money from the sale of malt beverages ~~beer~~ is collected is a separate place of business for which a license is required.

(c) A truck operated by a licensed distributor for the sale and delivery of malt beverages ~~beer~~ to a licensed retail dealer at the dealer's place of business is not a separate place of business for which a license is required.

SENATE VERSION (IE)

~~(c) If a conflict exists between this Act and S.B. 928, Acts of the 86th Legislature, Regular Session, 2019, this Act controls without regard to the relative dates of enactment.~~

SECTION 210. Same as House version.

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(d) The commission shall promulgate rules governing the transportation of malt beverages [~~beer~~], the sale of which is to be consummated at a licensed retailer's place of business.

(e) The holder of a brewer's or distributor's license shall register with the commission each warehouse used by the brewer or distributor to store malt beverages. The commission by rule shall determine the information that is required to register a warehouse under this subsection.

SECTION 209. Section 62.09, Alcoholic Beverage Code, is amended to read as follows:

Sec. 62.09. MALT BEVERAGES [~~BEER~~] FOR EXPORT. Regardless of any other provision of this code, a holder of a brewer's [~~manufacturer's~~] license may brew and package malt beverages or import them from outside the state, for shipment out of the state, even though the alcohol content, containers, packages, or labels make the beverages illegal to sell within the state. The licensee may export the beverages out of state or deliver them at the licensee's [~~his~~] premises for shipment out of the state without being liable for any state tax on [~~beer, ale, or~~] malt beverages [~~liquor~~] sold for resale in the state.

SECTION 210. Section 62.11, Alcoholic Beverage Code, is amended to read as follows:

Sec. 62.11. CONTINUANCE OF OPERATION AFTER LOCAL OPTION ELECTION. The right of a brewer's [~~manufacturer's~~] licensee to continue operation after a prohibitory local option election is covered by Section 251.75 [~~of this code~~].

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SECTION 211. Same as House version.

SECTION 212. Same as House version.

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SECTION 211. The heading to Section 62.122, Alcoholic Beverage Code, is amended to read as follows:

Sec. 62.122. SALES BY CERTAIN BREWERS [~~MANUFACTURERS~~] TO CONSUMERS.

SECTION 212. (a) Effective September 1, 2019, Section 62.122, Alcoholic Beverage Code, is amended by amending Subsections (a), (c), and (e) and adding Subsections (a-1), (e-1), and (g) to read as follows:

(a) A manufacturer's licensee whose annual production of beer, together with the annual production of ale by the holder of a brewer's permit at all premises wholly or partly owned, directly or indirectly, by the license holder or an affiliate or subsidiary of the license holder, does not exceed 225,000 barrels may sell beer produced on the manufacturer's premises under the license to ultimate consumers on the manufacturer's premises:

(1) for responsible consumption on the manufacturer's premises; or

(2) subject to Subsection (a-1), for off-premises consumption.

(a-1) Sales to a consumer on the manufacturer's premises for off-premises consumption are limited to 576 fluid ounces of beer and ale combined per calendar day.

(c) Subject to Subsections (b), (d), and (e), the holder of a manufacturer's license may sell beer produced on the manufacturer's premises under the license to ultimate consumers on the manufacturer's premises for responsible consumption on the manufacturer's premises or for off-

SENATE VERSION (IE)

SECTION 213. Same as House version.

SECTION 214. (a) Effective September 1, 2019, Section 62.122, Alcoholic Beverage Code, is amended by amending Subsections (a) and (e) and adding Subsections (a-1), (e-1), and (g) to read as follows:

(a) A manufacturer's licensee whose annual production of beer, together with the annual production of ale by the holder of a brewer's permit at all premises wholly or partly owned, directly or indirectly, by the license holder or an affiliate or subsidiary of the license holder, does not exceed 225,000 barrels may sell beer produced on the manufacturer's premises under the license to ultimate consumers on the manufacturer's premises:

(1) for responsible consumption on the manufacturer's premises; or

(2) subject to Subsection (a-1), for off-premises consumption.

(a-1) Sales to a consumer on the manufacturer's premises for off-premises consumption are limited to 288 fluid ounces of beer and ale combined per calendar day.

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premises consumption even if the annual production limit prescribed by Subsection (a) is exceeded if:

(1) the license holder:

(A) was legally operating a manufacturing facility with on-premise sales under Subsection (a) on February 1, 2017; or

(B) purchased an ownership interest in, or was purchased by the holder of, a permit or license issued under Chapter 12, 13, 62, or 63; and

(2) the license holder has annual production that does not exceed 175,000 barrels at the manufacturer's premises.

(e) A holder of a manufacturer's license who under Subsection (c) sells beer produced on the manufacturer's premises under the license to ultimate consumers on the manufacturer's premises for responsible consumption on the manufacturer's premises or for off-premises consumption:

(1) shall file a territorial agreement with the commission under Subchapters C and D, Chapter 102;

(2) must purchase any beer the license holder sells on the manufacturer's premises from the holder of a license issued under Chapter 64~~[, 65,]~~ or 66; and

(3) with respect to those purchases, must comply with the requirements of this code governing dealings between a distributor or wholesaler and a member of the retail tier, including Sections 61.73 and 102.31.

(e-1) The commission:

(1) may require the holder of a manufacturer's license who sells beer to ultimate consumers under this section to report to the commission each month, in the manner prescribed by the commission, the total amounts of beer sold by the permit holder under this section during the preceding month for:

(A) responsible consumption on the manufacturer's premises; and

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(e) A holder of a manufacturer's license who under Subsection (c) sells beer produced on the manufacturer's premises under the license to ultimate consumers on the manufacturer's premises for responsible consumption on the manufacturer's premises:

(1) shall file a territorial agreement with the commission under Subchapters C and D, Chapter 102;

(2) must purchase any beer the license holder sells on the manufacturer's premises from the holder of a license issued under Chapter 64~~[, 65,]~~ or 66; and

(3) with respect to those purchases, must comply with the requirements of this code governing dealings between a distributor or wholesaler and a member of the retail tier, including Sections 61.73 and 102.31.

(e-1) The commission:

(1) may require the holder of a manufacturer's license who sells beer to ultimate consumers under this section to report to the commission each month, in the manner prescribed by the commission, the total amounts of beer sold by the license holder under this section during the preceding month for:

(A) responsible consumption on the manufacturer's premises; and

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(B) off-premises consumption:

(2) by rule shall adopt a simple form for a report required under Subdivision (1); and

(3) shall maintain reports received under this subsection for public review.

(g) Notwithstanding any other provision of this code, the holder of a manufacturer's license whose annual production exceeds the limit prescribed by Subsection (a) and who was legally operating a facility with on-premise sales under Subsection (a) or Section 12.052(a) on February 1, 2017, may establish not more than two additional facilities with on-premise sales under Subsection (a) or Section 12.052(a) if each premises:

(1) does not produce more than a total of 225,000 barrels of beer and ale combined; and

(2) complies with the requirements of:

(A) Subsections (b) and (e); and

(B) Sections 12.052(b) and (e).

(b) Section 62.122, Alcoholic Beverage Code, is amended by amending Subsections (a), (b), (c), and (e) and adding Subsections (a-1), (e-1), and (g) to read as follows:

(a) A brewer's [manufacturer's] licensee whose annual production of malt beverages [beer, together with the annual production of ale by the holder of a brewer's permit] at all

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(B) off-premises consumption, as authorized by Subsection (a):

(2) by rule shall adopt a simple form for a report required under Subdivision (1); and

(3) shall maintain reports received under this subsection for public review.

(g) The commission may impose an administrative penalty against a license holder who violates Subsection (a-1) or fails to comply with a requirement established by the commission under Subsection (e-1). The commission shall adopt rules establishing:

(1) the amount of an administrative penalty under this subsection; and

(2) the procedures for imposing an administrative penalty under this subsection.

(b) Effective September 1, 2021, Section 62.122, Alcoholic Beverage Code, is amended by amending Subsections (a), (b), (c), and (e) and adding Subsections (a-1), (e-1), and (g) to read as follows: [FA3(1)]

(a) A brewer's [manufacturer's] licensee whose annual production of malt beverages [beer, together with the annual production of ale by the holder of a brewer's permit] at all

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premises wholly or partly owned, directly or indirectly, by the license holder or an affiliate or subsidiary of the license holder, does not exceed 225,000 barrels may sell malt beverages ~~[beer]~~ produced on the brewer's ~~[manufacturer's]~~ premises under the license to ultimate consumers on the brewer's ~~[manufacturer's]~~ premises;

(1) for responsible consumption on the brewer's ~~[manufacturer's]~~ premises; or

(2) subject to Subsection (a-1), for off-premises consumption.

(a-1) Sales to a consumer on the brewer's premises for off-premises consumption are limited to 576 fluid ounces of malt beverages per calendar day.

(b) The total ~~[combined]~~ sales of malt beverages ~~[beer]~~ to ultimate consumers under this section~~[, together with the sales of ale to ultimate consumers by the holder of a brewer's permit under Section 12.052]~~ at the same premises~~;~~ may not exceed 5,000 barrels annually.

(c) Subject to Subsections (b), (d), and (e), the holder of a brewer's ~~[manufacturer's]~~ license may sell malt beverages ~~[beer]~~ produced on the brewer's ~~[manufacturer's]~~ premises under the license to ultimate consumers on the brewer's ~~[manufacturer's]~~ premises for responsible consumption on the brewer's ~~[manufacturer's]~~ premises or for off-premises consumption even if the annual production limit prescribed by Subsection (a) is exceeded if:

(1) the license holder:

(A) was legally operating a manufacturing facility with on-premise sales under Subsection (a) on February 1, 2017; or
(B) purchased an ownership interest in, or was purchased by the holder of, a permit or license issued under Chapter 12, 13, 62, or 63; and

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premises wholly or partly owned, directly or indirectly, by the license holder or an affiliate or subsidiary of the license holder, does not exceed 225,000 barrels may sell malt beverages ~~[beer]~~ produced on the brewer's ~~[manufacturer's]~~ premises under the license to ultimate consumers on the brewer's ~~[manufacturer's]~~ premises;

(1) for responsible consumption on the brewer's ~~[manufacturer's]~~ premises; or

(2) subject to Subsection (a-1), for off-premises consumption.

(a-1) Sales to a consumer on the brewer's premises for off-premises consumption are limited to 288 fluid ounces of malt beverages per calendar day. [FA3(2)]

(b) The total ~~[combined]~~ sales of malt beverages ~~[beer]~~ to ultimate consumers under this section~~[, together with the sales of ale to ultimate consumers by the holder of a brewer's permit under Section 12.052]~~ at the same premises~~;~~ may not exceed 5,000 barrels annually.

(c) Subject to Subsections (b), (d), and (e), the holder of a brewer's ~~[manufacturer's]~~ license may sell malt beverages ~~[beer]~~ produced on the brewer's ~~[manufacturer's]~~ premises under the license to ultimate consumers on the brewer's ~~[manufacturer's]~~ premises for responsible consumption on the brewer's ~~[manufacturer's]~~ premises even if the annual production limit prescribed by Subsection (a) is exceeded if:

(1) the license holder:

(A) was legally operating a manufacturing facility with on-premise sales under Subsection (a) on February 1, 2017; or
(B) purchased an ownership interest in, or was purchased by the holder of, a permit or license issued under Chapter 12, 13, 62, or 63; and

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(2) the license holder has annual production that does not exceed 175,000 barrels at the brewer's [~~manufacturer's~~] premises.

(e) A holder of a brewer's [~~manufacturer's~~] license who under Subsection (c) sells malt beverages [~~beer~~] produced on the brewer's [~~manufacturer's~~] premises under the license to ultimate consumers on the brewer's [~~manufacturer's~~] premises for responsible consumption on the brewer's [~~manufacturer's~~] premises or for off-premises consumption:

(1) shall file a territorial agreement with the commission under Subchapters C and D, Chapter 102;

(2) must purchase any malt beverages [~~beer~~] the license holder sells on the brewer's [~~manufacturer's~~] premises from the holder of a license issued under Chapter 64[~~, 65,~~] or 66; and

(3) with respect to those purchases, must comply with the requirements of this code governing dealings between a distributor [~~or wholesaler~~] and a member of the retail tier, including Sections 61.73 and 102.31.

(e-1) The commission:

(1) may require the holder of a brewer's license who sells malt beverages to ultimate consumers under this section to report to the commission each month, in the manner prescribed by the commission, the total amounts of malt beverages sold by the license holder under this section during the preceding month for:

(A) responsible consumption on the brewer's premises; and

(B) off-premises consumption;

(2) by rule shall adopt a simple form for a report required under Subdivision (1); and

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(2) the license holder has annual production that does not exceed 175,000 barrels at the brewer's [~~manufacturer's~~] premises.

(e) A holder of a brewer's [~~manufacturer's~~] license who under Subsection (c) sells malt beverages [~~beer~~] produced on the brewer's [~~manufacturer's~~] premises under the license to ultimate consumers on the brewer's [~~manufacturer's~~] premises for responsible consumption on the brewer's [~~manufacturer's~~] premises:

(1) shall file a territorial agreement with the commission under Subchapters C and D, Chapter 102;

(2) must purchase any malt beverages [~~beer~~] the license holder sells on the brewer's [~~manufacturer's~~] premises from the holder of a license issued under Chapter 64[~~, 65,~~] or 66; and

(3) with respect to those purchases, must comply with the requirements of this code governing dealings between a distributor [~~or wholesaler~~] and a member of the retail tier, including Sections 61.73 and 102.31.

(e-1) The commission:

(1) may require the holder of a brewer's license who sells malt beverages to ultimate consumers under this section to report to the commission each month, in the manner prescribed by the commission, the total amounts of malt beverages sold by the license holder under this section during the preceding month for:

(A) responsible consumption on the brewer's premises; and

(B) off-premises consumption, as authorized by Subsection (a);

(2) by rule shall adopt a simple form for a report required under Subdivision (1); and

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(3) shall maintain reports received under this subsection for public review.

(g) Notwithstanding any other provision of this code, the holder of a brewer's license whose annual production exceeds the limit prescribed by Subsection (a) and who was legally operating a facility with on-premise sales under Subsection (a) on February 1, 2017, may establish not more than two additional facilities with on-premise sales under Subsection (a) if each premises:

(1) does not produce more than a total of 225,000 barrels of malt beverages; and

(2) complies with the requirements of Subsections (b) and (e).

SECTION 213. Sections 62.14(a), (b), (b-1), (c), and (e), Alcoholic Beverage Code, are amended to read as follows:

(a) The holder of a brewer's ~~manufacturer's~~ or nonresident brewer's ~~manufacturer's~~ license may contract with the holder of a brewer's ~~manufacturer's~~ license:

(1) to provide manufacturing services; or

(2) for the use of the license holder's manufacturing facilities under an alternating brewery proprietorship if each party to the proprietorship:

(A) has filed the appropriate Brewer's Notice and Brewer's Bond as required by the Alcohol and Tobacco Tax and Trade Bureau of the United States Department of the Treasury; and

(B) if applicable, has posted with the commission a bond in an amount determined by the commission under Subsection (d) or (e).

(b) An entity is not required to own its brewing ~~manufacturing~~ facilities if the entity operates under an

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(3) shall maintain reports received under this subsection for public review.

(g) The commission may impose an administrative penalty against a license holder who violates Subsection (a-1) or fails to comply with a requirement established by the commission under Subsection (e-1). The commission shall adopt rules establishing:

(1) the amount of an administrative penalty under this subsection; and

(2) the procedures for imposing an administrative penalty under this subsection. [FA3(3)]

SECTION 215. Same as House version.

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alternating brewery proprietorship as provided by Subsection (a).

(b-1) Each entity that is a party to an alternating brewery proprietorship or contract brewing arrangement must hold a license at the location where brewing [~~manufacturing~~] services are conducted under the arrangement.

(c) This section does not authorize a person acting as an agent for a brewer [~~manufacturer~~] located outside of this state to contract with the holder of a brewer's [~~manufacturer's~~] license to brew malt beverages [~~manufacture beer~~] on the person's behalf. A contract described by this subsection may only be entered into by the holder of a brewer's [~~manufacturer's~~] license and another person holding a license under this code.

(e) An entity that is a party to an alternating brewery proprietorship or contract brewing arrangement must post with the commission a bond in an amount determined by the commission of not less than \$30,000 if the entity does not own a fee interest in a brewing [~~manufacturing~~] facility.

SECTION 214. Chapter 62, Alcoholic Beverage Code, is amended by adding Section 62.15 to read as follows:

Sec. 62.15. IMPORTING MALT BEVERAGES. (a) In this subtitle, "importer" means a person who imports malt beverages into the state in quantities in excess of 288 fluid ounces in any one day.

(b) The holder of a brewer's license may import malt beverages into this state only from the holder of a nonresident brewer's license and may transport those beverages into this state only:

(1) in a motor vehicle that is:

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(A) owned or leased in good faith by the license holder; and
(B) printed or painted with the designation required by the commission; or
(2) by a railway carrier or by a motor carrier registered under Chapter 643, Transportation Code, or with the Federal Motor Carrier Safety Administration.
(c) The holder of a brewer's license transporting malt beverages under Subsection (b)(1) shall provide to the commission:
(1) a full description of each motor vehicle used by the license holder for transporting malt beverages; and
(2) any other information the commission requires.
(d) A carrier transporting malt beverages as authorized by Subsection (b)(2) must hold a carrier permit issued under Chapter 41 and the provisions of Chapter 41 relating to the transportation of liquor apply to the transportation of the malt beverages. A carrier may not transport malt beverages into the state unless it is consigned to an importer.

SECTION 215. The heading to Chapter 62A, Alcoholic Beverage Code, is amended to read as follows:
CHAPTER 62A. BREWER'S [~~MANUFACTURER'S~~]
SELF-DISTRIBUTION LICENSE

SECTION 216. Section 62A.01, Alcoholic Beverage Code, is amended to read as follows:
Sec. 62A.01. ELIGIBILITY FOR LICENSE. A brewer's [~~manufacturer's~~] self-distribution license may be issued only to the holder of a brewer's [~~manufacturer's~~] license under

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SECTION 217. Same as House version.

SECTION 218. Same as House version.

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Chapter 62 or the holder of a nonresident brewer's [~~manufacturer's~~] license under Chapter 63.

SECTION 217. Section 62A.02, Alcoholic Beverage Code, is amended to read as follows:

Sec. 62A.02. AUTHORIZED ACTIVITIES. (a) A holder of a brewer's [~~manufacturer's~~] self-distribution license whose annual production of malt beverages [~~beer~~] under the brewer's [~~manufacturer's~~] or nonresident brewer's [~~manufacturer's~~] license[~~, together with the annual production of ale by the holder of a brewer's or nonresident brewer's permit~~] at all premises owned directly or indirectly by the license holder or an affiliate or subsidiary of the license holder, does not exceed 125,000 barrels may sell malt beverages [~~beer~~] produced under the brewer's [~~manufacturer's~~] or nonresident brewer's [~~manufacturer's~~] license to those persons to whom the holder of a general distributor's license may sell malt beverages [~~beer~~] under Section 64.01(a)(2).

(b) The total [~~combined~~] sales of malt beverages [~~beer~~] under this section[~~, together with the sales of ale by the holder of a brewer's self distribution permit under Section 42A.02~~] at all premises owned directly or indirectly by the license holder or an affiliate or subsidiary of the license holder[~~,~~] may not exceed 40,000 barrels annually.

(c) With regard to a sale under this section, the holder of a brewer's [~~manufacturer's~~] self-distribution license has the same authority and is subject to the same requirements that apply to a sale made by the holder of a general distributor's license.

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SECTION 219. Same as House version.

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(d) Malt beverages [~~Beer~~] sold under this section may be shipped only from a manufacturing facility in this state.

SECTION 218. Section 62A.04(a), Alcoholic Beverage Code, is amended to read as follows:

(a) Not later than the 15th day of each month, the holder of a brewer's [~~manufacturer's~~] self-distribution license shall file a report with the commission that contains information relating to the sales made by the license holder to a retailer during the preceding calendar month.

SECTION 219. The heading to Chapter 63, Alcoholic Beverage Code, is amended to read as follows:

CHAPTER 63. NONRESIDENT BREWER'S [~~MANUFACTURER'S~~] LICENSE

SECTION 220. Section 63.01, Alcoholic Beverage Code, is amended to read as follows:

Sec. 63.01. AUTHORIZED ACTIVITIES. The holder of a nonresident brewer's [~~manufacturer's~~] license may transport malt beverages [~~beer~~] into Texas only to holders of brewer's or distributor's [~~importer's~~] licenses. The nonresident brewer's [~~manufacturer's~~] licensee may transport the malt beverages [~~beer~~] in carriers or vehicles operated by holders of carrier's permits or in motor vehicles owned or leased by the nonresident brewer [~~manufacturer~~]. The malt beverages [~~beer~~] must be shipped in barrels or other containers in accordance with the provisions of this code and may not be shipped into the state in tank cars.

SECTION 220. Same as House version.

SECTION 221. Same as House version.

SECTION 222. Same as House version.

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SECTION 221. Section 63.03, Alcoholic Beverage Code, is amended to read as follows:

Sec. 63.03. LIABILITY FOR TAXES; BOND. The holder of a nonresident brewer's [~~manufacturer's~~] license that transports malt beverages [~~beer~~] into Texas in a motor vehicle owned or leased by the licensee [~~him~~] is not primarily responsible for the payment of the taxes on the malt beverages [~~beer~~], which remains the responsibility of the holder of the brewer's or distributor's [~~importer's~~] license. However, the nonresident brewer [~~manufacturer~~] shall furnish the commission with a bond in an amount which, in the commission's judgment, will protect the revenue of the state from the tax due on the malt beverages [~~beer~~] over any six-week period.

SECTION 223. Same as House version.

SECTION 222. Section 63.04, Alcoholic Beverage Code, is amended to read as follows:

Sec. 63.04. APPLICATION OF CODE PROVISIONS AND RULES. A holder of a nonresident brewer's [~~manufacturer's~~] license is subject to all applicable provisions of this code and all applicable rules of the commission which apply to holders of brewer's [~~manufacturer's~~] licenses, including rules relating to the quality, purity, and identity of malt beverages [~~beer~~] and to protecting the public health. The commission may suspend or cancel a nonresident brewer's [~~manufacturer's~~] license and apply penalties in the same manner as it does with respect to a brewer's [~~manufacturer's~~] license.

SECTION 224. Same as House version.

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SECTION 223. Sections 63.05(a), (b), (b-1), (c), and (e), Alcoholic Beverage Code, are amended to read as follows:

(a) The holder of a brewer's ~~[manufacturer's]~~ or nonresident brewer's ~~[manufacturer's]~~ license may contract with the holder of a nonresident brewer's ~~[manufacturer's]~~ license:

(1) to provide brewing ~~[manufacturing]~~ services; or

(2) for the use of the license holder's brewing ~~[manufacturing]~~ facilities under an alternating brewery proprietorship if each party to the proprietorship:

(A) has filed the appropriate Brewer's Notice and Brewer's Bond as required by the Alcohol and Tobacco Tax and Trade Bureau of the United States Department of the Treasury; and

(B) if applicable, has posted with the commission a bond in an amount determined by the commission under Subsection (d) or (e).

(b) An entity is not required to own its brewing ~~[manufacturing]~~ facilities if the entity operates under an alternating brewery proprietorship as provided by Subsection (a).

(b-1) Each entity that is a party to an alternating brewery proprietorship or contract brewing arrangement must hold a license at the location where brewing ~~[manufacturing]~~ services are conducted under the arrangement.

(c) This section does not authorize a person acting as an agent for a brewer ~~[manufacturer]~~ located outside of this state to contract with the holder of a nonresident brewer's ~~[manufacturer's]~~ license to brew malt beverages ~~[manufacture beer]~~ on the person's behalf. A contract described by this subsection may only be entered into by the holder of a nonresident brewer's ~~[manufacturer's]~~ license and another person holding a license under this code.

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SECTION 225. Same as House version.

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(e) An entity that is a party to an alternating brewery proprietorship or contract brewing arrangement must post with the commission a bond in an amount determined by the commission of not less than \$30,000 if the entity does not own a fee interest in a brewing [~~manufacturing~~] facility.

SECTION 224. Section 64.01(a), Alcoholic Beverage Code, is amended to read as follows:

(a) The holder of a general distributor's license may:

(1) receive malt beverages [~~beer~~] in unbroken original packages from brewers [~~manufacturers~~] and brewpubs and from general[, ~~local,~~] or branch distributors;

(2) distribute or sell malt beverages [~~beer~~] in the unbroken original packages in which they are [~~it is~~] received to general or[,] branch[, ~~or local~~] distributors, to local distributor permittees, to permittees or licensees authorized to sell to ultimate consumers, to private club registration permittees, to authorized outlets located on any installation of the national military establishment, or to qualified persons for shipment and consumption outside the state; and

(3) serve free malt beverages [~~beer~~] for consumption on the licensed premises.

SECTION 225. Section 64.03, Alcoholic Beverage Code, is amended to read as follows:

Sec. 64.03. SALE OF MALT BEVERAGES [~~BEER~~] TO PRIVATE CLUBS. The holder of a general distributor's license may sell and deliver malt beverages [~~beer~~] to private clubs located in wet areas without having to secure a prior order. All sales made under the authority of this section must

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SECTION 226. Same as House version.

SECTION 227. Same as House version.

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be made in accordance with Sections 61.73 and 102.31 [~~of this code~~].

SECTION 226. Section 64.04(a), Alcoholic Beverage Code, is amended to read as follows:

(a) Each holder of a general[~~, local,~~] or branch distributor's license shall make and keep a daily record of every receipt of malt beverages [~~beer~~] and of every sale of malt beverages [~~beer~~], including the name of each purchaser. Each transaction shall be recorded on the day it occurs. The licensee shall make and keep any other records that the commission or administrator requires.

SECTION 228. Same as House version.

SECTION 227. Section 64.07, Alcoholic Beverage Code, is amended to read as follows:

Sec. 64.07. MAY SHARE PREMISES. (a) Any number of general[~~, local,~~] and branch distributors may use the same delivery vehicles, premises, location, or place of business as licensed premises if the malt beverages [~~beer~~] owned and stored by each of the distributors are [~~is~~] segregated.

(b) If delivery vehicles are shared by any number of distributors who also hold any class of wholesaler's permits, liquor or malt beverages [~~beer~~] may be transported. [~~The provisions of Section 42.03 of this code do not apply and no distributor or wholesaler shall be required to obtain the certificate or permit described by that section to share a delivery vehicle for the transportation of liquor or beer.~~]

(c) The provisions of Subsections (a) and (b) [~~of this section~~] that relate to shared delivery vehicles apply only to those general[~~, local,~~] or branch distributors who hold a territorial

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designation from a brewer [~~manufacturer~~] under Section 102.51 [~~of this code~~].

SECTION 228. (a) Effective September 1, 2019, Sections 64.08(a) and (c), Alcoholic Beverage Code, are amended to read as follows:

(a) The holder of a general distributor's license may sell beer [~~to the holder of an industrial permit~~] for use as an ingredient in the manufacturing and processing of food products.

(c) A person [~~The industrial permittee~~] may not resell beer purchased under this section, divert the beer to use for beverage purposes, possess the beer with intent that it be used for beverage purposes, or possess the beer under circumstances from which it may reasonably be deduced that the beer is to be used for beverage purposes.

(b) Effective September 1, 2021, Section 64.08, Alcoholic Beverage Code, is amended to read as follows:

Sec. 64.08. MALT BEVERAGES [~~BEER~~] FOR USE IN FOOD PRODUCTS INDUSTRY. (a) The holder of a general distributor's license may sell malt beverages [~~beer to the holder of an industrial permit~~] for use as an ingredient in the manufacturing and processing of food products.

(b) The malt beverages [~~beer~~] must be sold in containers of not less than one-half barrel. The sale is subject to the requirements of Section 102.31 [~~of this code~~]. The seller shall keep records of shipments and sales of malt beverages [~~beer~~] in a manner prescribed by the commission or administrator.

(c) A person [~~The industrial permittee~~] may not resell malt beverages [~~beer~~] purchased under this section, divert the malt beverages [~~beer~~] to use for beverage purposes, possess

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the malt beverages [beer] with intent that the malt beverages [it] be used for beverage purposes, or possess the malt beverages [beer] under circumstances from which it may reasonably be deduced that the malt beverages are [beer-is] to be used for beverage purposes.

(d) Taxes imposed by this code do not apply to malt beverages [beer] sold under this section.

SECTION 229. Section 64.09, Alcoholic Beverage Code, is amended to read as follows:

Sec. 64.09. MALT BEVERAGES [BEER] FOR EXPORT.

(a) In this section "malt beverages [beer] for export" means malt beverages [beer] a distributor holds for export to another state in which the distributor has been assigned a territory for the distribution and sale of the malt beverages [beer]. The term includes malt beverages [beer] that are [is] illegal to sell in this state because of alcohol content, containers, packages, or labels.

(b) The holder of a general distributor's license who receives malt beverages [beer] for export from the holder of a brewer's [manufacturer's] or nonresident brewer's [manufacturer's] license may:

- (1) store the malt beverages [beer] for export at the distributor's premises;
- (2) transport the malt beverages [beer] for export outside the state in the distributor's own vehicles; or
- (3) deliver the malt beverages [beer] for export to a common carrier for export and delivery outside the state.

(c) The holder of a general distributor's license is not liable for any state tax on the malt beverages [beer] for export.

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(d) Section 101.67 does not apply to malt beverages [~~beer~~] for export.

SECTION 230. Chapter 64, Alcoholic Beverage Code, is amended by adding Section 64.10 to read as follows:

Sec. 64.10. IMPORTING MALT BEVERAGES. (a) In this section, "importer" means a person who imports malt beverages into the state in quantities in excess of 288 fluid ounces in any one day.

(b) The holder of a general distributor's license may import malt beverages into this state only from the holder of a nonresident brewer's license and may transport those beverages into this state only:

(1) in a motor vehicle that is:

(A) owned or leased in good faith by the license holder; and

(B) printed or painted with the designation required by the commission; or

(2) by a railway carrier or by a motor carrier registered under Chapter 643, Transportation Code, or with the Federal Motor Carrier Safety Administration.

(c) The holder of a general distributor's license transporting malt beverages under Subsection (b)(1) shall provide to the commission:

(1) a full description of each motor vehicle used by the license holder for transporting malt beverages; and

(2) any other information the commission requires.

(d) A carrier transporting malt beverages as authorized by Subsection (b)(2) must hold a carrier permit issued under Chapter 41 and the provisions of Chapter 41 relating to the transportation of liquor apply to the transportation of the malt

SENATE VERSION (IE)

SECTION 232. Same as House version.

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beverages. A carrier may not transport malt beverages into the state unless it is consigned to an importer.

SECTION 231. Section 66.03(a), Alcoholic Beverage Code, is amended to read as follows:

(a) Except as provided in Subsection (b) [~~of this section~~], a branch distributor's license may be issued only to the holder of a general distributor's license who first has obtained the primary license in the county of the licensee's [~~his~~] residence or domicile. The branch distributor's license may be issued for premises in any county where the sale of malt beverages [~~beer~~] is legal.

SECTION 233. Same as House version.

SECTION 232. Section 66.07, Alcoholic Beverage Code, is amended to read as follows:

Sec. 66.07. SALE OF MALT BEVERAGES [~~BEER~~] TO PRIVATE CLUBS. The holder of a branch distributor's license may sell and deliver malt beverages [~~beer~~] to private clubs located in wet areas without having to secure a prior order. All sales made under the authority of this section must be made in accordance with Sections 61.73 and 102.31 [~~of this code~~].

SECTION 234. Same as House version.

SECTION 233. Section 66.11, Alcoholic Beverage Code, is amended to read as follows:

Sec. 66.11. MALT BEVERAGES [~~BEER~~] FOR EXPORT.
(a) In this section "malt beverages [~~beer~~] for export" means malt beverages [~~beer~~] a distributor holds for export to another state in which the distributor has been assigned a

SECTION 235. Same as House version.

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territory for the distribution and sale of the malt beverages [~~beer~~]. The term includes malt beverages [~~beer~~] that ~~are~~ [is] illegal to sell in this state because of alcohol content, containers, packages, or labels.

(b) The holder of a branch distributor's license who receives malt beverages [~~beer~~] for export from the holder of a brewer's [~~manufacturer's~~] or nonresident brewer's [~~manufacturer's~~] license may:

(1) store the malt beverages [~~beer~~] for export at the distributor's premises;

(2) transport the malt beverages [~~beer~~] for export outside the state in the distributor's own vehicles; or

(3) deliver the malt beverages [~~beer~~] for export to a common carrier for export and delivery outside the state.

(c) The holder of a branch distributor's license is not liable for any state tax on the malt beverages [~~beer~~] for export.

(d) Section 101.67 does not apply to malt beverages [~~beer~~] for export.

SECTION 234. Section 69.01, Alcoholic Beverage Code, is amended to read as follows:

Sec. 69.01. AUTHORIZED ACTIVITIES. The holder of a retail dealer's on-premise license may sell malt beverages [~~beer~~] in or from any lawful container to the ultimate consumer for consumption on or off the premises where sold. The licensee may not sell malt beverages [~~beer~~] for resale.

SECTION 235. Section 69.04, Alcoholic Beverage Code, is amended to read as follows:

SENATE VERSION (IE)

SECTION 236. Same as House version.

SECTION 237. Same as House version.

CONFERENCE

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Sec. 69.04. HOTELS NOT DISQUALIFIED. The fact that a hotel holds a permit to sell distilled spirits in unbroken packages does not disqualify the hotel from also obtaining a license to sell malt beverages [~~beer~~] for on-premises consumption.

SECTION 236. Effective December 31, 2020, Sections 69.06(a), (b), and (c), Alcoholic Beverage Code, are amended to read as follows:

(a) The commission [~~county judge~~] shall deny an original application for a retail dealer's on-premise license if the commission [~~county judge~~] finds that the applicant or the applicant's spouse, during the five years immediately preceding the application, was finally convicted of a felony or one of the following offenses:

- (1) prostitution;
- (2) a vagrancy offense involving moral turpitude;
- (3) bookmaking;
- (4) gambling or gaming;
- (5) an offense involving controlled substances as defined in the Texas Controlled Substances Act, including an offense involving a synthetic cannabinoid, or an offense involving other dangerous drugs;
- (6) a violation of this code resulting in the cancellation of a license or permit, or a fine of not less than \$500;
- (7) more than three violations of this code relating to minors;
- (8) bootlegging; or
- (9) an offense involving firearms or a deadly weapon.

(b) The commission [~~county judge~~] shall also deny an original application for a license if the commission [~~he~~] finds that five years has not elapsed since the termination of a

SENATE VERSION (IE)

SECTION 238. Same as House version.

CONFERENCE

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sentence, parole, or probation served by the applicant or the applicant's spouse because of a felony conviction or conviction of any of the offenses described in Subsection (a) [~~of this section~~].

(c) The commission shall deny an application for [~~refuse to issue~~] a renewal of a retail dealer's on-premise license if it finds:

(1) that the applicant or the applicant's spouse has been finally convicted of a felony or one of the offenses listed in Subsection (a) [~~of this section~~] at any time during the five years immediately preceding the filing of the application for renewal; or

(2) that five years has not elapsed since the termination of a sentence, parole, or probation served by the applicant or the applicant's spouse because of a felony prosecution or prosecution for any of the offenses described in Subsection (a) [~~of this section~~].

SECTION 237. Section 69.10, Alcoholic Beverage Code, is amended to read as follows:

Sec. 69.10. STORING OR POSSESSING MALT BEVERAGES [~~BEER~~] OFF PREMISES PROHIBITED. No holder of a retail dealer's on-premise license may own, possess, or store malt beverages [~~beer~~] for the purpose of resale except on the licensed premises.

SECTION 238. Section 69.11, Alcoholic Beverage Code, is amended to read as follows:

Sec. 69.11. EXCHANGE OR TRANSPORTATION OF MALT BEVERAGES [~~BEER~~] BETWEEN LICENSED

SENATE VERSION (IE)

SECTION 239. Same as House version.

SECTION 240. Same as House version.

CONFERENCE

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PREMISES UNDER SAME OWNERSHIP. The owner of two or more licensed retail premises may not exchange or transport malt beverages [~~beer~~] between them unless all of the conditions set out in Section 24.04 [~~of this code~~] are met, except that malt beverages [~~beer~~] may be transferred between two licensed retail premises that are both covered by package store permits as provided in Section 22.08 [~~of this code~~].

SECTION 239. Section 69.13, Alcoholic Beverage Code, is amended to read as follows:

Sec. 69.13. BREACH OF PEACE: RETAIL ESTABLISHMENT. The commission or administrator may suspend or cancel the license of a retail malt beverage [~~beer~~] dealer after giving the licensee notice and the opportunity to show compliance with all requirements of law for retention of the license if it finds that a breach of the peace has occurred on the licensed premises or on premises under the licensee's control and that the breach of the peace was not beyond the control of the licensee and resulted from the licensee's [~~his~~] improper supervision of persons permitted to be on the licensed premises or on premises under the licensee's [~~his~~] control.

SECTION 240. Section 69.17(a), Alcoholic Beverage Code, is amended to read as follows:

(a) Notwithstanding any other provision of this code, a license under this chapter may be issued for a premises in an area in which the voters have approved the following alcoholic beverage ballot issues in a local option election:

SENATE VERSION (IE)

SECTION 241. Same as House version.

SECTION 242. Same as House version.

CONFERENCE

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- (1) "The legal sale of malt beverages [~~beer~~] and wine for off-premise consumption only."; and
- (2) either:
 - (A) "The legal sale of mixed beverages."; or
 - (B) "The legal sale of mixed beverages in restaurants by food and beverage certificate holders only."

SECTION 241. Chapter 69, Alcoholic Beverage Code, is amended by adding Section 69.18 to read as follows:

Sec. 69.18. SALES AT TEMPORARY LOCATION. (a) The holder of a retail dealer's on-premise license may temporarily sell malt beverages in or from any lawful container to ultimate consumers:

- (1) at a picnic, celebration, or similar event; and
- (2) in the county where the license is issued.

(b) The holder of a retail dealer's on-premise license may temporarily sell malt beverages under this section for not more than four consecutive days at the same location.

(c) The commission shall adopt rules to implement this section, including rules that:

- (1) require the license holder to notify the commission of the dates on which and location where the license holder will temporarily offer malt beverages for sale under this section;
- (2) establish a procedure to verify the wet or dry status of the location where the license holder intends to temporarily sell malt beverages under this section;
- (3) detail the circumstances when a license holder may temporarily sell malt beverages under this section with just a notification to the commission and the circumstances that require the commission's preapproval before a license holder may temporarily sell malt beverages under this section; and

SENATE VERSION (IE)

SECTION 243. Same as House version.

CONFERENCE

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(4) require the license holder to provide any other information the commission determines necessary.

SECTION 242. Section 71.01, Alcoholic Beverage Code, is amended to read as follows:

Sec. 71.01. AUTHORIZED ACTIVITIES. The holder of a retail dealer's off-premise license may sell malt beverages [~~beer~~] in lawful containers to consumers, but not for resale and not to be opened or consumed on or near the premises where sold.

SECTION 244. Same as House version.

SECTION 243. Section 71.06, Alcoholic Beverage Code, is amended to read as follows:

Sec. 71.06. STORING OR POSSESSING MALT BEVERAGES [~~BEER~~] OFF PREMISES PROHIBITED. A [~~No~~] holder of a retail dealer's off-premise license may not own, possess, or store malt beverages [~~beer~~] for the purpose of resale except on the licensed premises.

SECTION 245. Same as House version.

SECTION 244. Section 71.07, Alcoholic Beverage Code, is amended to read as follows:

Sec. 71.07. EXCHANGE OR TRANSPORTATION OF MALT BEVERAGES [~~BEER~~] BETWEEN LICENSED PREMISES UNDER SAME OWNERSHIP. Section 69.11 [~~of this code~~] relates to the exchange or transportation of malt beverages [~~beer~~] between licensed premises by retail dealers.

SECTION 246. Same as House version.

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SECTION 245. Section 71.09, Alcoholic Beverage Code, is amended to read as follows:

Sec. 71.09. BREACH OF PEACE: RETAIL ESTABLISHMENT. The application of sanctions for the occurrence of a breach of the peace at a retail malt beverage [~~beer~~] establishment is covered by Section 69.13 [~~of this code~~].

SECTION 246. Section 71.10(a), Alcoholic Beverage Code, is amended to read as follows:

(a) Each holder of a retail dealer's off-premise license shall display in a prominent place on the licensee's [~~his~~] premises a sign stating in letters at least two inches high: IT IS A CRIME (MISDEMEANOR) TO CONSUME LIQUOR OR MALT BEVERAGES [~~BEER~~] ON THESE PREMISES.

SECTION 247. Section 71.11, Alcoholic Beverage Code, is amended to read as follows:

Sec. 71.11. MALT BEVERAGE [~~BEER~~] SAMPLING. (a) The holder of a retail dealer's off-premise license may conduct free product samplings of malt beverages [~~beer~~] on the license holder's premises during regular business hours as provided by this section.

(b) An agent or employee of the holder of a retail dealer's off-premise license may open, touch, or pour malt beverages [~~beer~~], make a presentation, or answer questions at a sampling event.

(c) For the purposes of this code and any other law or ordinance:

SENATE VERSION (IE)

SECTION 247. Same as House version.

SECTION 248. Same as House version.

SECTION 249. Same as House version.

CONFERENCE

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- (1) a retail dealer's off-premise license does not authorize the sale of alcoholic beverages for on-premise consumption; and
- (2) none of the license holder's income may be considered to be income from the sale of alcoholic beverages for on-premise consumption.
- (d) Any malt beverages ~~[beer]~~ used in a sampling event under this section must be purchased from or provided by the retailer on whose premises the sampling event is held.

SECTION 248. (a) Effective September 1, 2019, the heading to Chapter 73, Alcoholic Beverage Code, is amended to read as follows:

CHAPTER 73. ~~[AGENTS'] BEER AGENT [LICENSE]~~

(b) Effective September 1, 2021, the heading to Chapter 73, Alcoholic Beverage Code, is amended to read as follows:

CHAPTER 73. MALT BEVERAGE AGENT ~~[AGENT'S BEER LICENSE]~~

SECTION 249. (a) Effective September 1, 2019, Section 73.01, Alcoholic Beverage Code, is amended to read as follows:

Sec. 73.01. AUTHORIZED ACTIVITIES. (a) Subject to the limitations imposed in Section 73.011 ~~[of this code]~~ or elsewhere in this code, a person ~~[the holder of an agent's beer license,]~~ acting as an employee or representative of a licensed manufacturer of beer located inside or outside the state or as an employee or representative of a licensed distributor~~[-]~~ may:

SENATE VERSION (IE)

SECTION 250. Same as House version.

SECTION 251. Same as House version.

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(1) promote the sale of beer through methods such as solicitation, display, advertising, and personal contact with licensed retailers of beer and their agents, servants, and employees, and with consumers of beer; and

(2) sell beer and offer it for sale.

(b) A person acting as a beer agent may represent only one permitted or licensed business at a time while soliciting or taking orders.

(b) Effective September 1, 2021, Section 73.01, Alcoholic Beverage Code, is amended to read as follows:

Sec. 73.01. AUTHORIZED ACTIVITIES. (a) Subject to the limitations imposed in Section 73.011 [~~of this code~~] or elsewhere in this code, ~~a person [the holder of an agent's beer license,~~ acting as an employee or representative of a licensed ~~brewer [manufacturer]~~ of ~~malt beverages [beer]~~ located inside or outside the state or as an employee or representative of a licensed distributor[;] may:

(1) promote the sale of ~~malt beverages [beer]~~ through methods such as solicitation, display, advertising, and personal contact with licensed retailers of ~~malt beverages [beer]~~ and their agents, servants, and employees, and with consumers of ~~malt beverages [beer]~~; and

(2) sell ~~malt beverages [beer]~~ and offer ~~them [it]~~ for sale.

(b) A person acting as a malt beverage agent may represent only one permitted or licensed business at a time while soliciting or taking orders.

SECTION 250. (a) Effective September 1, 2019, Section 73.011, Alcoholic Beverage Code, is amended to read as follows:

SENATE VERSION (IE)

SECTION 252. Same as House version.

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Sec. 73.011. LIMITATIONS ON AUTHORITY OF ~~[AGENT'S] BEER AGENT [LICENSEE]~~. (a) A person ~~[holder of an agent's beer license]~~ who is an employee or agent of a manufacturer's licensee or a nonresident manufacturer's licensee may not represent that the person ~~[holder]~~ is the agent of or is acting on behalf of a licensed distributor. An agent may not engage in conduct that is prohibited by Section 102.75 ~~[of this code]~~ or other provisions of this code.

(b) A ~~[holder of an agent's] beer agent [license]~~ may not make a representation, solicitation, or offer that this code or the rules of the commission prohibits the agent's employer from offering, making, or fulfilling.

(b) Effective September 1, 2021, Section 73.011, Alcoholic Beverage Code, is amended to read as follows:

Sec. 73.011. LIMITATIONS ON AUTHORITY OF MALT BEVERAGE AGENT [AGENT'S BEER LICENSEE]. (a) A person ~~[holder of an agent's beer license]~~ who is an employee or agent of a brewer's ~~[manufacturer's]~~ licensee or a nonresident brewer's ~~[manufacturer's]~~ licensee may not represent that the person ~~[holder]~~ is the agent of or is acting on behalf of a licensed distributor. A malt beverage ~~[An]~~ agent may not engage in conduct that is prohibited by Section 102.75 ~~[of this code]~~ or other provisions of this code.

(b) A malt beverage agent ~~[A holder of an agent's beer license]~~ may not make a representation, solicitation, or offer that this code or the rules of the commission prohibits the agent's employer from offering, making, or fulfilling.

SECTION 251. Section 74.01, Alcoholic Beverage Code, is amended to read as follows:

SENATE VERSION (IE)

SECTION 253. Same as House version.

CONFERENCE

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SENATE VERSION (IE)

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Sec. 74.01. AUTHORIZED ACTIVITIES. (a) A holder of a brewpub license for a brewpub located in a wet area, as that term is described by Section 251.71 [of this code], may:

(1) ~~manufacture,~~ brew, bottle, can, package, and label malt beverages ~~[liquor, ale, and beer]~~;

(2) sell or offer without charge, on the premises of the brewpub, to ultimate consumers for consumption on or off those premises, malt beverages ~~[liquor, ale, or beer]~~ produced by the holder, in or from a lawful container, to the extent the sales or offers are allowed under the holder's other permits or licenses; and

(3) sell food on the premises of the holder's breweries.

(b) The holder of a brewpub license may establish, operate, or maintain one or more licensed brewpubs in this state under the same general management or ownership. The holder shall pay the fee assessed by the commission for each establishment. For the purposes of this subsection, two or more establishments are under the same general management or ownership if:

(1) the establishments bottle the same brand of malt beverage ~~[liquor, beer, or ale]~~ or bottle malt beverages ~~[liquor, beer, or ale]~~ brewed by the same brewer ~~[manufacturer]~~; or

(2) the person, regardless of domicile, who establishes, operates, or maintains the establishments is controlled or directed by one management or by an association of ultimate management.

(c) A holder of a brewpub license must also hold a wine and malt beverage ~~[beer]~~ retailer's permit, a mixed beverage permit, or a retail dealer's on-premise license.

(d) The holder of a brewpub license may not hold or have an interest either directly or indirectly, or through a

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subsidiary, affiliate, agent, employee, officer, director, or other person, in a brewer's ~~[manufacturer's]~~ or distributor's license or any other license or permit in the manufacturing or wholesaling levels of the alcoholic beverage industry regardless of the specific names given to permits or licenses in Title 3 of this code. The holder shall be considered a "retailer" for purposes of Section 102.01 ~~[of this code]~~.

~~(e) [A holder of a retail dealer's on-premise license who obtains a brewpub license may not manufacture, brew, bottle, can, package, label, sell, or offer without charge malt liquor or ale.~~

~~[(g)]~~ The holder of a brewpub license may deliver malt beverages brewed ~~[liquor, ale, or beer manufactured]~~ by the holder to a location other than the holder's premises for the purpose of submitting the malt beverages ~~[liquor, ale, or beer]~~ for an evaluation at an organized malt beverage ~~[liquor, ale, or beer]~~ tasting, competition, or review. At a tasting, competition, or review, a holder of a brewpub license may:

- (1) dispense without charge malt beverages brewed ~~[liquor, ale, or beer manufactured]~~ by the holder to a person attending the event for consumption on the premises of the event; and
- (2) discuss with a person attending the event the brewing ~~[manufacturing]~~ and characteristics of the malt beverages ~~[liquor, ale, or beer]~~.

SECTION 252. Section 74.03, Alcoholic Beverage Code, is amended to read as follows:

Sec. 74.03. PRODUCTION LIMIT. The total annual production of malt beverages ~~[liquor, ale, and beer]~~ by a holder of a brewpub license may not exceed 10,000 barrels for each licensed brewpub.

SENATE VERSION (IE)

SECTION 254. Same as House version.

CONFERENCE

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SENATE VERSION (IE)

CONFERENCE

SECTION 253. Section 74.04, Alcoholic Beverage Code, is amended to read as follows:

Sec. 74.04. LICENSE APPLICATION, RENEWAL, AND MAINTENANCE; RECORDS; LICENSE ISSUANCE. All provisions of this code that apply to a brewpub licensee's wine and malt beverage [~~beer~~] retailer's permit, mixed beverage permit, or retail dealer's on-premise license also apply to the brewpub license.

SECTION 255. Same as House version.

SECTION 254. (a) Effective December 31, 2020, Section 74.05, Alcoholic Beverage Code, is amended to read as follows:

Sec. 74.05. STATEMENT OF INTENT. An applicant for a brewpub license shall file with the application a sworn statement that the applicant shall be engaged in the business of brewing and packaging malt liquor, ale, or beer in this state in quantities sufficient to operate a brewpub not later than six months after the date of issuance of the original license. If the applicant is a corporation, the statement must be signed by a principal corporate officer. The commission[~~administrator, or county judge~~] may not issue a brewpub license to an applicant who does not submit the required sworn statement with the application for a license.

SECTION 256. Same as House version.

(b) Effective September 1, 2021, Section 74.05, Alcoholic Beverage Code, is amended to read as follows:

Sec. 74.05. STATEMENT OF INTENT. An applicant for a brewpub license shall file with the application a sworn statement that the applicant shall be engaged in the business of brewing and packaging malt beverages [~~liquor, ale, or~~

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~~beer~~] in this state in quantities sufficient to operate a brewpub not later than six months after the date of issuance of the original license. If the applicant is a corporation, the statement must be signed by a principal corporate officer. The commission~~[- administrator, or county judge]~~ may not issue a brewpub license to an applicant who does not submit the required sworn statement with the application for a license.

SECTION 255. Section 74.06, Alcoholic Beverage Code, is amended to read as follows:

Sec. 74.06. **QUALITY STANDARDS.** Brewing ~~[Manufacturing or brewing]~~ equipment used by a holder of a brewpub license, and process, labeling, and packaging conducted by a holder of a brewpub license, shall conform to standards and tax requirements imposed by this code and the commission's rules for the brewing ~~[manufacture]~~ of malt beverages ~~[beer and the brewing of ale and malt liquor]~~ and shall conform to any standards that may be applied by the agency of the United States charged with supervising and inspecting the ~~[manufacture and]~~ brewing of alcoholic beverages.

SECTION 256. Section 74.07, Alcoholic Beverage Code, is amended to read as follows:

Sec. 74.07. **CONTAINER SIZE.** In addition to any other container for ~~[beer, ale, or]~~ malt beverages ~~[liquor]~~ authorized elsewhere in this code, a holder of a brewpub license may store or serve to consumers ~~[beer, ale, or]~~ malt beverages brewed ~~[liquor manufactured]~~ by the holder of the

SENATE VERSION (IE)

SECTION 257. Same as House version.

SECTION 258. Same as House version.

CONFERENCE

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license at the premises of the brewpub license from any container having the capacity of one barrel or whole multiples of one barrel.

SECTION 257. Sections 74.08(a) and (d), Alcoholic Beverage Code, are amended to read as follows:

(a) In addition to the activities authorized by Section 74.01, the holder of a brewpub license who holds a wine and malt beverage [~~beer~~] retailer's permit and whose sale of [~~beer, ale, or~~] malt beverages [~~liquor~~] consists only of [~~beer, ale, or~~] malt beverages brewed [~~liquor manufactured~~] on the brewpub's premises may[+:

~~[(1) sell malt liquor or ale produced under the license to those retailers or qualified persons to whom the holder of a general class B wholesaler's permit may sell malt liquor or ale under Section 20.01; and~~

~~[(2)]~~ sell malt beverages [~~beer~~] produced under the license to:

~~(1) [(A)]~~ those retailers to whom the holder of a general distributor's license may sell malt beverages [~~beer~~] under Section 64.01; or

~~(2) [(B)]~~ qualified persons to whom the holder of a general distributor's license may sell malt beverages [~~beer~~] for shipment and consumption outside the state under Section 64.01.

(d) The total amount of malt beverages [~~liquor, ale, and beer~~] sold under this section to persons in this state may not exceed 1,000 barrels annually for each licensed brewpub location or 2,500 barrels annually for all brewpubs operated by the same licensee.

SENATE VERSION (IE)

SECTION 259. Same as House version.

CONFERENCE

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SECTION 258. Section 74.09, Alcoholic Beverage Code, is amended to read as follows:

Sec. 74.09. SALES TO DISTRIBUTORS. (a) In addition to the activities authorized by Section 74.01, the holder of a brewpub license may sell malt beverages [~~beer~~] produced under the license to the holder of a general [~~local~~] or branch distributor's license.

(b) The holder of a brewpub license who sells malt beverages [~~beer~~] under Subsection (a) shall comply with the requirements of Section 102.51.

SECTION 259. Effective December 1, 2020, Section 81.003, Alcoholic Beverage Code, is amended to read as follows:

Sec. 81.003. SUBMISSION OF INFORMATION BY CERTAIN OFFICIALS. For the purposes of Section 81.004 or 81.005, the district or county attorney of the county or the city attorney of the city in which the premises are located may provide information to the commission [~~administrator, or county judge, as appropriate,~~] indicating that the holder of, or applicant for, a permit or license covering the premises has used or can reasonably be expected to use or allow others to use the premises in a manner that constitutes a common nuisance.

SECTION 260. Effective December 31, 2020, Section 81.004, Alcoholic Beverage Code, is amended to read as follows:

Sec. 81.004. APPLICATION FOR ORIGINAL OR RENEWAL PERMIT OR LICENSE. The commission[;

SENATE VERSION (IE)

SECTION 260. Same as House version.

SECTION 261. Same as House version.

SECTION 262. Same as House version.

CONFERENCE

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~~administrator, or county judge, as applicable,] may deny an application for [refuse to issue] an original or renewal permit or license as provided by Section 11.43[~~, after notice and an opportunity for a hearing,]~~ if the commission[~~, administrator, or county judge]~~ finds that, at any time during the 12 months preceding the permit or license application, a common nuisance existed on the premises for which the permit or license is sought, regardless of whether the acts constituting the common nuisance were engaged in by the applicant or whether the applicant controlled the premises at the time the common nuisance existed. The commission[~~, administrator, or county judge, as applicable,]~~ may issue an original or renewal permit or license if[~~, at the hearing,]~~ it is found that the applicant did not control the premises at the time the common nuisance existed and the applicant has taken reasonable measures to abate the common nuisance.~~

SECTION 261. Effective December 31, 2020, Section 81.006, Alcoholic Beverage Code, is amended to read as follows:

Sec. 81.006. ORDER IMPOSING ADDITIONAL CONDITIONS ON PERMIT OR LICENSE HOLDER. (a) The commission[~~, administrator, or county judge, as applicable,]~~ may, after notice and hearing [under Section 81.004 or 81.005], issue an order imposing any condition on a permit or license holder that is reasonably necessary to abate a common nuisance on the premises.

(b) The commission [or administrator] may suspend for not more than 60 days or cancel the permit or license of a permit or license holder who violates an order issued under this section. The commission [or administrator] may offer the

SENATE VERSION (IE)

SECTION 263. Same as House version.

CONFERENCE

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permit or license holder the opportunity to pay a civil penalty rather than have the permit or license suspended.

SECTION 262. Effective December 31, 2020, Sections 81.007(a), (b), (b-1), and (c), Alcoholic Beverage Code, are amended to read as follows:

(a) Before holding a hearing and making a determination under Section 81.004 or 81.005, the commission[~~administrator, or county judge, as applicable,~~] may, if there is evidence showing a reasonable likelihood that a common nuisance exists on the premises for which the permit or license is held or sought, issue an order imposing any condition on the permit or license holder or the applicant for the permit or license that is reasonably necessary to abate a common nuisance on the premises. An order issued under this section is effective until:

(1) the expiration of the time for appealing the determination under Section 81.004 or 81.005; or

(2) if the determination is appealed, until all appeals are finally decided.

(b) A hearings officer [~~or county judge~~] may issue an order under this section on the hearings officer's [~~or county judge's~~] own motion or the motion of a person listed in Section 81.003 or, for an original or renewal permit or license application, any individual entitled to protest the issuance of the original or renewal permit or license.

(b-1) If an individual [~~other than a person described in Subsection (b)~~] who is entitled to protest the issuance of the original or renewal permit or license files a motion for a temporary order under this section, the commission[~~administrator, or county judge, as applicable,~~]

SENATE VERSION (IE)

SECTION 264. Same as House version.

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~~administrator, or county judge, as applicable,]~~ may not issue a temporary order without conducting a hearing.

(c) The commission ~~[hearings officer or county judge]~~ may impose any sanction on a person who violates an order issued under Subsection (a) that is necessary to secure compliance with the order.

SECTION 263. Effective December 31, 2020, Sections 101.01(c) and (d), Alcoholic Beverage Code, are amended to read as follows:

(c) If the court finds that a person has violated a restraining order or injunction issued under this section, it shall enter a judgment to that effect. The judgment operates to cancel without further proceedings any license or permit held by the person. The district clerk ~~[shall notify the county judge of the county where the premises covered by the permit or license are located and]~~ shall notify the commission when a judgment is entered that operates to cancel a license or permit.

(d) A ~~[No]~~ license or permit may not be issued to a person whose license or permit is cancelled under Subsection (c) until the first anniversary of the date the license or permit is cancelled ~~[of this section for one year after the cancellation]~~.

SECTION 264. Section 101.32(b), Alcoholic Beverage Code, is amended to read as follows:

(b) Possession in a dry area of more than 24 twelve-ounce bottles of malt beverages ~~[beer]~~, or an equivalent amount, is prima facie evidence of possession with intent to sell.

SENATE VERSION (IE)

SECTION 265. Same as House version.

SECTION 266. Same as House version.

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SECTION 265. Section 101.41, Alcoholic Beverage Code, is amended to read as follows:

Sec. 101.41. CONTAINERS, PACKAGING, AND DISPENSING EQUIPMENT OF MALT BEVERAGES [~~BEER~~]: LABELS. (a) A brewer [~~No manufacturer~~] or distributor, directly or indirectly or through a subsidiary, affiliate, agent, employee, officer, director, or firm member, may not brew [~~manufacture~~], sell, or otherwise introduce into commerce any container, packaging, or dispensing equipment of malt beverages [~~beer~~] that does not meet the requirements of this section.

(b) Every container of malt beverages [~~beer~~] must have a label or imprint in legible type showing the full name and address of the brewer [~~manufacturer~~] and, if it contains a special brand brewed for a distributor, of the distributor. Any box, crate, carton, or similar device in which containers of malt beverages [~~beer~~] are sold or transported must have a label meeting the same requirements.

(c) The label of a container of malt beverages [~~beer~~] must state:

(1) the net contents in terms of United States liquor measure;
and

(2) the alcohol content by volume.

(d) A [~~No~~] container, packaging material, or dispensing equipment may not bear a label or imprint that:

(1) by wording, lettering, numbering, or illustration, or in any other manner refers or alludes to or suggests a brewing [~~manufacturing~~] process, aging, analysis, or a scientific fact;

(2) refers or alludes to the "proof," "balling," or "extract" of the product;

(3) is untrue in any respect; or

SENATE VERSION (IE)

SECTION 267. Same as House version.

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(4) by ambiguity, omission, or inference tends to create a misleading impression, or causes or is calculated to cause deception of the consumer with respect to the product.

SECTION 266. Section 101.42, Alcoholic Beverage Code, is amended to read as follows:

Sec. 101.42. RETURNABLE CONTAINER: ACCEPTANCE BY ANOTHER BREWER [~~MANUFACTURER~~]. A brewer [~~No manufacturer~~] of malt beverages [~~beer~~] may not purchase, accept as a return, or use a barrel, half-barrel, keg, case, or bottle permanently branded or imprinted with the name of another brewer [~~manufacturer~~].

SECTION 267. Section 101.43(a), Alcoholic Beverage Code, is amended to read as follows:

(a) A brewer [~~No manufacturer~~] or distributor, directly or indirectly, or through a subsidiary, affiliate, agent, employee, officer, director, or firm member, may not sell or otherwise introduce into commerce a brewery product that is misbranded.

SECTION 268. Section 101.46(b), Alcoholic Beverage Code, is amended to read as follows:

(b) Subsection (a) [~~of this section~~] does not apply to permittees or licensees while engaged in supplying [~~airline beverage,~~] mixed beverage permittees[~~;~~] or passenger transportation [~~bus beverage~~] permittees under Section 48.03 or 48.05, nor to the possession or sale of liquor by a [~~an~~

SENATE VERSION (IE)

SECTION 268. Same as House version.

SECTION 269. Same as House version.

SECTION 270. Same as House version.

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~~airline beverage,]~~ mixed beverage permittee[;] or a passenger transportation ~~[bus beverage]~~ permittee under Section 48.03 or 48.05, but none of the permittees or licensees covered by this subsection may possess liquor in a container with a capacity of less than one fluid ounce.

SECTION 269. Section 101.48, Alcoholic Beverage Code, is amended to read as follows:

Sec. 101.48. COMMISSION'S REGULATORY AUTHORITY. Sections 5.39 and 5.40 ~~[of this code]~~ relate to the commission's authority to regulate liquor containers and malt beverage ~~[beer]~~ container deposits.

SECTION 270. Section 101.66, Alcoholic Beverage Code, is amended to read as follows:

Sec. 101.66. BEVERAGES OF CERTAIN ALCOHOL CONTENT PROHIBITED. A ~~[No]~~ person may not manufacture, sell, barter, or exchange a beverage that contains more than ~~[alcohol in excess of]~~ one-half of one percent alcohol by volume and not more than five ~~[four]~~ percent ~~[of]~~ alcohol by volume ~~[weight]~~, except malt beverages ~~[beer]~~, wine coolers, and spirit coolers.

SECTION 271. (a) Effective December 31, 2020, Section 101.67, Alcoholic Beverage Code, is amended to read as follows:

Sec. 101.67. PRIOR APPROVAL OF MALT BEVERAGES. (a) Before an authorized licensee ~~[No person]~~ may ship or cause to be shipped into the state, import

SENATE VERSION (IE)

SECTION 271. Same as House version.

SECTION 272. Same as House version.

SECTION 273. Same as House version.

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into the state, manufacture and offer for sale in the state, or distribute, sell, or store in the state any ~~[beer, ale, or]~~ malt beverages, the licensee must register the malt beverages with the commission. The registration application must include a certificate of label approval issued by the United States Alcohol and Tobacco Tax and Trade Bureau for the product ~~[liquor unless:~~

~~[(1) a sample of the beverage or a sample of the same type and quality of beverage has been first tested to verify the alcohol content of the beverage by:~~

~~[(A) an independent laboratory;~~

~~[(B) a laboratory certified by the United States Alcohol and Tobacco Tax and Trade Bureau or its successor agency as qualified for the analysis of beer for export; or~~

~~[(C) the commission; and~~

~~[(2) the label of the beverage has been first submitted to the commission or its representative and found to comply with all provisions of this code relating to the labeling of the particular type of beverage].~~

(b) Only a brewer's or nonresident brewer's permittee, a manufacturer's or nonresident manufacturer's licensee, or a brewpub licensee may apply to register ~~[for and receive label approval on beer, ale, or]~~ malt beverages with the commission ~~[liquor].~~

(c) This section does not apply to the importation of beer for personal consumption and not for sale.

(d) On registration of a certificate of label approval issued by the United States Alcohol and Tobacco Tax and Trade Bureau, the commission shall approve the product under this section and issue a letter to that effect to the licensee unless the commission determines the product, despite having a valid federal certificate of label approval, would create a

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~~public safety concern, create a cross-tier violation, or otherwise violate this code. [If the commission determines that the product tested and label submitted under Subsection (a) comply with the provisions of this code and the rules of the commission,]~~

(d-1) If the commission approves the product, the commission shall issue a certificate of approval upon receipt of a fee in an amount that is sufficient to cover the cost of administering this section. A copy of the certificate shall be kept on file in the office of the commission.

(e) Not later than the 30th day after the date the commission receives an application for registration of a product under this section, the commission shall either approve or deny the registration application. If the commission denies the application for a product with a valid federal certificate of label approval or fails to act on the application within the time required by this subsection, the licensee submitting the application is entitled to an administrative hearing before the State Office of Administrative Hearings [The commission may require proof by affidavit or otherwise that a laboratory performing a test under Subsection (a)(1)(A) is independent].

(f) The commission by rule shall establish procedures for:
(1) accepting federal certificates of label approval for registration under this section;
(2) registering alcoholic beverage products that are not eligible to receive a certificate of label approval issued by the United States Alcohol and Tobacco Tax and Trade Bureau; and
(3) registering alcoholic beverage products during periods when the United States Alcohol and Tobacco Tax and Trade

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Bureau has ceased processing applications for a certificate of label approval.

(g) The commission shall consider the nutrition label requirements of the United States Food and Drug Administration and the alcohol label requirements of the United States Alcohol and Tobacco Tax and Trade Bureau in developing the label requirements to register products described by Subsection (f)(2).

(h) The rules adopted under this section may not require testing for alcohol content as part of the process for registering an alcoholic beverage with the commission.

(b) Effective September 1, 2021, Sections 101.67(b) and (c), Alcoholic Beverage Code, are amended to read as follows:

(b) Only a brewer's [~~or nonresident brewer's permittee, a manufacturer's~~] or nonresident brewer's [manufacturer's] licensee, or a brewpub licensee may apply to register [~~for and receive label approval on beer, ale, or~~] malt beverages with the commission [liquor].

(c) This section does not apply to the importation of malt beverages [beer] for personal consumption and not for sale.

SECTION 272. (a) Effective September 1, 2019, Subchapter D, Chapter 101, Alcoholic Beverage Code, is amended by adding Section 101.6701 to read as follows:

Sec. 101.6701. LABEL APPROVAL NOT REQUIRED FOR CERTAIN MALT BEVERAGES. (a) This section applies only to:

(1) the holder of a brewer's permit authorized under Section 12.052 to sell ale produced on the brewer's premises under the permit to ultimate consumers on the brewer's premises

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SECTION __. (a) Effective September 1, 2019, Subchapter D, Chapter 101, Alcoholic Beverage Code, is amended by adding Section 101.6701 to read as follows:

Sec. 101.6701. LABEL APPROVAL NOT REQUIRED FOR CERTAIN MALT BEVERAGES. (a) This section applies only to:

(1) the holder of a brewer's permit authorized under Section 12.052 to sell ale produced on the brewer's premises under the permit to ultimate consumers on the brewer's premises

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for responsible consumption on the brewer's premises and for off-premises consumption; and

(2) the holder of a manufacturer's license authorized under Section 62.122 to sell beer produced on the manufacturer's premises under the license to ultimate consumers on the manufacturer's premises for responsible consumption on the manufacturer's premises and for off-premises consumption.

(b) Notwithstanding Sections 101.41 and 101.67 or any other law, a permit or license holder to whom this section applies may sell beer, ale, or malt liquor to ultimate consumers for consumption on the permit or license holder's premises or for off-premises consumption without receiving label approval for the beer, ale, or malt liquor.

(c) A permit or license holder who sells beer, ale, or malt liquor under Subsection (b) shall:

(1) post in a conspicuous place on the permit or license holder's premises the alcohol content of the beer, ale, or malt liquor in percentage of alcohol by volume; and

(2) provide in writing to an ultimate consumer who purchases beer, ale, or malt liquor for off-premises consumption:

(A) the product name of the beer, ale, or malt liquor; and

(B) the alcohol content of the beer, ale, or malt liquor in percentage of alcohol by volume.

(d) A permit or license holder satisfies the requirement of Subsection (c)(2) if the permit or license holder:

(1) writes the product name and alcohol content on the container of the beer, ale, or malt liquor; or

(2) applies a label with the product name and alcohol content to the container of the beer, ale, or malt liquor.

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for responsible consumption on the brewer's premises and for off-premises consumption; and

(2) the holder of a manufacturer's license authorized under Section 62.122 to sell beer produced on the manufacturer's premises under the license to ultimate consumers on the manufacturer's premises for responsible consumption on the manufacturer's premises and for off-premises consumption.

(b) Notwithstanding Sections 101.41 and 101.67 or any other law, a permit or license holder to whom this section applies may sell beer, ale, or malt liquor to ultimate consumers for consumption on the permit or license holder's premises or for off-premises consumption without receiving label approval for the beer, ale, or malt liquor.

(c) A permit or license holder who sells beer, ale, or malt liquor under Subsection (b) shall:

(1) post in a conspicuous place on the permit or license holder's premises the alcohol content of the beer, ale, or malt liquor in percentage of alcohol by volume; and

(2) provide in writing to an ultimate consumer who purchases beer, ale, or malt liquor for off-premises consumption:

(A) the product name of the beer, ale, or malt liquor; and

(B) the alcohol content of the beer, ale, or malt liquor in percentage of alcohol by volume.

(d) A permit or license holder satisfies the requirements of Subsection (c)(2) if the permit or license holder:

(1) writes the product name and alcohol content on the container of the beer, ale, or malt liquor; or

(2) applies a label with the product name and alcohol content to the container of the beer, ale, or malt liquor.

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(b) Effective September 1, 2021, Subchapter D, Chapter 101, Alcoholic Beverage Code, is amended by adding Section 101.6701 to read as follows:

Sec. 101.6701. LABEL APPROVAL NOT REQUIRED FOR CERTAIN MALT BEVERAGES. (a) This section applies only to the holder of a brewer's license authorized under Section 62.122 to sell malt beverages produced on the brewer's premises under the license to ultimate consumers on the brewer's premises for responsible consumption on the brewer's premises and for off-premises consumption.

(b) Notwithstanding Sections 101.41 and 101.67 or any other law, a license holder to whom this section applies may sell malt beverages to ultimate consumers for consumption on the license holder's premises or for off-premises consumption without receiving label approval for the malt beverages.

(c) A license holder who sells malt beverages under Subsection (b) shall:

(1) post in a conspicuous place on the license holder's premises the alcohol content of the malt beverages in percentage of alcohol by volume; and

(2) provide in writing to an ultimate consumer who purchases a malt beverage for off-premises consumption:

(A) the product name of the malt beverage; and

(B) the alcohol content of the malt beverage in percentage of alcohol by volume.

(d) A license holder satisfies the requirements of Subsection (c)(2) if the license holder:

(1) writes the product name and alcohol content on the container of the malt beverage; or

(2) applies a label with the product name and alcohol content to the container of the malt beverage.

SENATE VERSION (IE)

(b) Effective September 1, 2021, Subchapter D, Chapter 101, Alcoholic Beverage Code, is amended by adding Section 101.6701 to read as follows:

Sec. 101.6701. LABEL APPROVAL NOT REQUIRED FOR CERTAIN MALT BEVERAGES. (a) This section applies only to the holder of a brewer's license authorized under Section 62.122 to sell malt beverages produced on the brewer's premises under the license to ultimate consumers on the brewer's premises for responsible consumption on the brewer's premises and for off-premises consumption.

(b) Notwithstanding Sections 101.41 and 101.67 or any other law, a license holder to whom this section applies may sell malt beverages to ultimate consumers for consumption on the license holder's premises or for off-premises consumption without receiving label approval for the malt beverages.

(c) A license holder who sells malt beverages under Subsection (b) shall:

(1) post in a conspicuous place on the license holder's premises the alcohol content of the malt beverages in percentage of alcohol by volume; and

(2) provide in writing to an ultimate consumer who purchases a malt beverage for off-premises consumption:

(A) the product name of the malt beverage; and

(B) the alcohol content of the malt beverage in percentage of alcohol by volume.

(d) A license holder satisfies the requirements of Subsection (c)(2) if the license holder:

(1) writes the product name and alcohol content on the container of the malt beverage; or

(2) applies a label with the product name and alcohol content to the container of the malt beverage. [FA3(4)]

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CONFERENCE

SECTION 273. Effective December 31, 2020, Section 101.671, Alcoholic Beverage Code, is amended by amending Subsections (b) and (d) and adding Subsections (c-1), (e), and (f) to read as follows:

(b) On registration of a certificate of label approval issued by the United States Alcohol and Tobacco Tax and Trade Bureau, the commission shall approve the product under this section and issue a letter to that effect to the permittee unless the commission determines the product, despite having a valid federal certificate of label approval, would create a public safety concern, create a cross-tier violation, or otherwise violate this code. The commission may not require additional approval for the product unless there is a change to the label or product that requires reissuance of the federal certificate of label approval. The commission shall accept the certificate of label approval as constituting full compliance only with any applicable standards adopted under Section 5.38 regarding quality, purity, and identity of distilled spirits or wine.

(c-1) Not later than the 30th day after the date the commission receives an application for registration of a product under this section, the commission shall either approve or deny the registration application. If the commission denies the application for a product with a valid federal certificate of label approval or fails to act on the application within the time required by this subsection, the permittee submitting the application is entitled to an administrative hearing before the State Office of Administrative Hearings.

SECTION 274. Same as House version.

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(d) The commission by rule shall [~~may~~] establish procedures for:

(1) accepting:

(A) [~~(1)~~] federal certificates of label approval for registration under this section; and

(B) [~~(2)~~] proof, such as a letter of authorization, that a permittee is the primary American source of supply of the product or brand for purposes of Section 37.10; and

(2) registering alcoholic beverage products that are not eligible to receive a certificate of label approval issued by the United States Alcohol and Tobacco Tax and Trade Bureau.

(e) The commission shall consider the nutrition label requirements of the United States Food and Drug Administration and the alcohol label requirements of the United States Alcohol and Tobacco Tax and Trade Bureau in developing the label requirements to register products described by Subsection (d)(2).

(f) The rules adopted under this section may not require testing for alcohol content as part of the process for registering an alcoholic beverage with the commission.

SECTION 274. Section 101.72(a), Alcoholic Beverage Code, is amended to read as follows:

(a) A person commits an offense if the person knowingly consumes liquor or malt beverages [~~beer~~] on the premises of a holder of a wine and malt beverage [~~beer~~] retailer's off-premise permit or a retail dealer's off-premise license.

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SECTION 275. Same as House version.

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SECTION 275. Section 102.03(a), Alcoholic Beverage Code, is amended to read as follows:

(a) This section applies to the holder of a [~~brewer's,~~ distiller's and rectifier's, winery, wholesaler's, or class B wholesaler's[~~, or wine bottler's~~] permit.

SECTION 276. Section 102.04(a), Alcoholic Beverage Code, is amended to read as follows:

(a) This section applies to any person who has an interest in the business of a distiller-rectifier, [~~brewer,~~] wholesaler, class B wholesaler, winery, [~~wine bottler,~~] or local distributor's permittee. This section also applies to the agent, servant, or employee of a person who has an interest in one of those businesses.

SECTION 277. Section 102.05, Alcoholic Beverage Code, is amended to read as follows:

Sec. 102.05. HOTEL: MULTIPLE INTERESTS AUTHORIZED. A hotel may hold a package store permit, mixed beverage permit, wine and malt beverage [~~beer~~] retailer's permit, and retail dealer's license if the businesses are completely segregated from each other.

SECTION 278. Effective September 1, 2019, Section 102.06, Alcoholic Beverage Code, is amended to read as follows:

Sec. 102.06. RELATIONSHIP BETWEEN AGENT [~~OR MANUFACTURER'S AGENT~~] AND PACKAGE STORE. An agent acting under Chapter 35 or 36 [~~No holder of an~~

SENATE VERSION (IE)

SECTION 276. Same as House version.

SECTION 277. Same as House version.

SECTION 278. Same as House version.

SECTION 279. Same as House version.

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~~agent's or manufacturer's agent's permit]~~ may not directly or indirectly have an interest in a package store permit or wine only package store permit or be residentially domiciled with a person who has a financial interest in a package store permit or wine only package store permit.

SECTION 279. Section 102.07(a), Alcoholic Beverage Code, is amended to read as follows:

(a) Except as provided in Subsections (b), (d), and (g), ~~a~~ a ~~no~~ person who owns or has an interest in the business of a distiller, ~~brewer,~~ rectifier, wholesaler, class B wholesaler, or winery, or ~~wine bottler, nor~~ the agent, servant, or employee of such a person, may not:

- (1) own or have a direct or indirect interest in the business, premises, equipment, or fixtures of a retailer;
- (2) furnish, give, or lend any money, service, or thing of value to a retailer;
- (3) guarantee a financial obligation of a retailer;
- (4) make or offer to enter an agreement, condition, or system which will in effect amount to the shipment and delivery of alcoholic beverages on consignment;
- (5) furnish, give, rent, lend, or sell to a retail dealer any equipment, fixtures, or supplies to be used in selling or dispensing alcoholic beverages, except that alcoholic beverages may be packaged in combination with other items if the package is designed to be delivered intact to the ultimate consumer and the additional items have no value or benefit to the retailer other than that of having the potential of attracting purchases and promoting sales;
- (6) pay or make an allowance to a retailer for a special advertising or distribution service;

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SECTION 280. Same as House version.

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- (7) allow an excessive discount to a retailer; or
- (8) offer a prize, premium, gift, or similar inducement to a retailer or to the agent, servant, or employee of a retailer.

SECTION 280. Section 102.07(f), Alcoholic Beverage Code, as effective April 1, 2019, is amended to read as follows:

(f) Notwithstanding Subsection (a) [~~of this section~~], Section 108.05, or any other provision of this code, a holder of a [~~brewer's permit, nonresident brewer's permit,~~] distiller's and rectifier's permit, winery permit, nonresident seller's permit, brewer's [manufacturer's] license, or nonresident brewer's [manufacturer's] license may, in order to promote the brand name of the permittee's or licensee's products, contract with a person licensed under Subtitle A-1, Title 13, Occupations Code (Texas Racing Act), for on-site advertising signs, for advertising in programs, and to supplement purses for races even though the licensees under that subtitle or the owners or operators of the racing facilities also hold a mixed beverage permit or other permit or license under this code. In addition, a permittee or licensee described by this subsection may contract for off-site advertising promoting specific races. A part of the cost of an advertisement or promotion authorized by this section may not be charged to or paid, directly or indirectly, by the holder of a wholesaler's [wholesale] permit, general class B wholesaler's permit, [~~local class B wholesaler's permit,~~] local distributor's permit, or general distributor's license [~~, or local distributor's license~~], except through the price paid by that holder for products purchased from the holder's supplier.

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SECTION 281. Same as House version.

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SECTION 281. Section 102.07(g), Alcoholic Beverage Code, is amended to read as follows:

(g) Subsection (a) does not prohibit a permittee covered under Subsection (a) from prearranging or preannouncing a promotional activity otherwise permitted by this code with a retailer about a promotional activity to be held on the retailer's premises. Notwithstanding any other provision, a permittee may:

- (1) preannounce a promotion to a consumer; or
- (2) preannounce the purchase of wine or [~~;~~] distilled spirits [~~;~~ ~~ale, or malt liquor~~] to a consumer.

SECTION 282. Sections 102.071(d) and (e), Alcoholic Beverage Code, are amended to read as follows:

(d) Sections 61.73 and 102.31 apply to payment for glassware bearing the name, emblem, or logo of a brand of malt beverage by the holder of [~~a wholesaler's permit or~~] a distributor's license.

(e) For the purposes of Subchapters C and D, the sale, by the holder of a distributor's license, of a nonalcoholic beverage produced or sold by a brewer [~~manufacturer~~] of malt beverages and that bears the name, emblem, logo, or brand of a brewer [~~manufacturer~~] of malt beverages is the same as a sale of malt beverages [~~beer~~].

SECTION 283. Section 102.11, Alcoholic Beverage Code, is amended to read as follows:

Sec. 102.11. BREWER [~~MANUFACTURER~~] OR DISTRIBUTOR: PROHIBITED INTERESTS. A brewer [~~No manufacturer~~] or distributor directly or indirectly, or

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SECTION 282. Same as House version.

SECTION 283. Same as House version.

SECTION 284. Same as House version.

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through a subsidiary, affiliate, agent, employee, officer, director, or firm member, may not:

- (1) own any interest in the business or premises of a retail dealer of malt beverages [~~beer~~]; or
- (2) hold or have an interest in a license to sell brewery products for on-premises consumption, except to the extent that a brewer's [~~manufacturer's~~] license permits on-premises consumption.

SECTION 284. Section 102.12, Alcoholic Beverage Code, is amended to read as follows:

Sec. 102.12. **COMMERCIAL BRIBERY BY BREWER [~~MANUFACTURER~~] OR DISTRIBUTOR.** A brewer [~~No manufacturer~~] or distributor directly or indirectly, or through a subsidiary, affiliate, agent, employee, officer, director, or firm member, may not give or permit to be given money or any thing of value in an effort to induce agents, employees, or representatives of customers or prospective customers to influence their employers or principals to purchase or contract to purchase brewery products from the brewer [~~manufacturer~~] or distributor or to refrain from buying those products from other persons.

SECTION 285. Section 102.13, Alcoholic Beverage Code, is amended to read as follows:

Sec. 102.13. **EXCLUSIVE OUTLET AGREEMENT AS TO BREWERY PRODUCTS.** A brewer [~~No manufacturer~~] or distributor directly or indirectly, or through a subsidiary, affiliate, agent, employee, officer, director, or firm member, may not require, by agreement or otherwise, that a retailer

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SECTION 285. Same as House version.

SECTION 286. Same as House version.

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engaged in the sale of brewery products purchase any of those products from the brewer ~~[him]~~ to the total or partial exclusion of the products sold or offered for sale by a competitor or require the retailer to take or dispose of a certain quota of the product.

SECTION 286. Section 102.14, Alcoholic Beverage Code, is amended to read as follows:

Sec. 102.14. BREWER ~~[MANUFACTURER]~~ OR DISTRIBUTOR: FURNISHING EQUIPMENT OR FIXTURES. (a) A brewer ~~[No manufacturer]~~ or distributor directly or indirectly, or through a subsidiary, affiliate, agent, employee, officer, director, or firm member, may not furnish, give, rent, lend, or sell any equipment, fixtures, or supplies to a person engaged in selling brewery products for on-premises consumption.

(b) This section does not apply to equipment, fixtures, or supplies furnished, given, loaned, rented, or sold before November 16, 1935, except that transactions made before that date may not be used as consideration for an agreement made after that date with respect to the purchase of brewery products. If a brewer ~~[manufacturer]~~ or distributor of brewery products or an agent or employee of one of them removes the equipment, fixtures, or supplies from the premises of the person to whom they were furnished, given, loaned, rented, or sold, the exemption granted by this subsection no longer applies to the equipment, fixtures, or supplies.

(c) Notwithstanding any other provision of this code, a brewer ~~[manufacturer]~~ or distributor may, with written approval of the administrator, sell for cash devices designed

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SECTION 287. Same as House version.

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to extract brewery products from legal containers subject to the following conditions:

- (1) the legal containers must not exceed a one-eighth barrel capacity and must not be reused or refilled;
- (2) the selling price of such devices may be no less than the cost of acquisition to the brewer [~~manufacturer~~] or distributor; and
- (3) such devices which extract brewery products from legal containers covered by this section may not be furnished, given, rented, or sold by the brewer [~~manufacturer~~] or distributor to a licensee or permittee authorized to sell or serve brewery products for on-premise consumption, or to the ultimate consumer.

SECTION 287. Section 102.15, Alcoholic Beverage Code, is amended to read as follows:

Sec. 102.15. BREWER [~~MANUFACTURER~~] OR DISTRIBUTOR: PROHIBITED DEALINGS WITH RETAILER. (a) Except as provided by Subsection (b), a brewer [~~no manufacturer~~] or distributor directly or indirectly, or through a subsidiary, affiliate, agent, employee, officer, director, or firm member, may not:

- (1) furnish, give, or lend any money or other thing of value to a person engaged or about to be engaged in selling brewery products for on-premises or off-premises consumption, or give the person any money or thing of value for the person's [~~his~~] use, benefit, or relief; or
- (2) guarantee the repayment of a loan or the fulfillment of a financial obligation of a person engaged in or about to be engaged in selling malt beverages [~~beer~~] at retail.

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SECTION 288. Same as House version.

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(b) Subsection (a) does not prohibit a brewer [~~manufacturer~~] or distributor from prearranging or preannouncing a promotional activity otherwise permitted by this code with a retailer about a promotional activity to be held on the retailer's premises. Notwithstanding any other provision, a brewer [~~manufacturer~~] or distributor may:

- (1) preannounce a promotion to a consumer; or
- (2) preannounce the purchase of malt beverages [~~beer~~] to a consumer.

SECTION 288. Section 102.17, Alcoholic Beverage Code, is amended to read as follows:

Sec. 102.17. CONTRACT FOR SALE OF LIQUOR. A [~~brewer,~~] distiller and rectifier, winery permittee, [~~manufacturer,~~] or nonresident seller of liquor and the holder of a wholesaler's permit may enter into a contract for the sale and purchase of a specified quantity of liquor to be delivered over an agreed period of time, but only if the contract is first submitted to the commission or administrator and found by the commission or administrator not to be calculated to induce a violation of this code.

SECTION 289. Section 102.18, Alcoholic Beverage Code, is amended to read as follows:

Sec. 102.18. BREWER [~~MANUFACTURER~~]: PROHIBITED INTERESTS. (a) This section applies to the following:

- (1) a holder of a brewer's [~~manufacturer's~~] or nonresident brewer's [~~manufacturer's~~] license;

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SECTION 289. Same as House version.

SECTION 290. Same as House version.

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(2) an officer, director, agent, or employee of an entity named in Subdivision (1) ~~[of this subsection]~~; or
(3) an affiliate of an entity named in Subdivision (1) ~~[of this subsection]~~, regardless of whether the affiliation is corporate or by management, direction, or control.
(b) ~~An~~ ~~[No]~~ entity named in Subsection (a) ~~[of this section]~~ may not have any interest in the license, business, assets, or corporate stock of a holder of a general~~[-local]~~ or branch distributor's license.

SECTION 290. Section 102.21, Alcoholic Beverage Code, is amended to read as follows:

Sec. 102.21. CONTINUITY OF CERTAIN PROTECTIONS FOR MALT BEVERAGE ~~[BEER]~~ DISTRIBUTORS. The protections provided to malt beverage ~~[beer]~~ distributors by Subchapters C and D apply regardless of whether there is a transfer or change of ownership of a brand at the manufacturing level.

SECTION 291. Section 102.22(a), Alcoholic Beverage Code, is amended to read as follows:

(a) A person who holds ~~[a permit issued under Chapter 12 or 13 or]~~ a license issued under Chapter 62 or 63 shall verify to the commission on an annual basis that a brewing ~~[or manufacturing]~~ facility owned or controlled by the ~~[permit or]~~ license holder is not used to produce malt beverages primarily for a specific retailer or the retailer's affiliates.

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SECTION 291. Same as House version.

SECTION 292. Same as House version.

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SECTION 292. Section 102.31(a), Alcoholic Beverage Code, is amended to read as follows:

(a) This section applies to:

(1) the sale of malt beverages ~~[beer]~~ or malt beverage ~~[its]~~ containers or the original packages in which malt beverages ~~are~~ ~~[it is]~~ received, packaged, or contained by a distributor's licensee to a retail dealer's on-premise or off-premise licensee, a wine and malt beverage ~~[beer]~~ retailer's permittee, or a wine and malt beverage ~~[beer]~~ retailer's off-premise permittee; and

(2) the sale of malt beverages by a local distributor's permittee, or by any licensee authorized to sell those beverages for resale, to a mixed beverage ~~[or daily temporary mixed beverage]~~ permittee.

SECTION 293. Sections 102.32(a)(1) and (2), Alcoholic Beverage Code, are amended to read as follows:

(1) "Wholesale dealer" means a wholesaler, class B wholesaler, winery, ~~[wine bottler,]~~ or local distributor's permittee.

(2) "Retailer" means a package store, wine only package store, wine and malt beverage ~~[beer]~~ retailers, wine and malt beverage ~~[beer]~~ retailer's off-premise, or mixed beverage permittee, any other retailer, or a private club registration permittee. For purposes of this section, the holder of a winery permit issued under Chapter 16 is a retailer when the winery permit holder purchases wine from the holder of a wholesaler's permit issued under Chapter 19 for resale to ultimate consumers in unbroken packages.

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SECTION 293. Same as House version.

SECTION 294. Same as House version.

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SECTION 294. The heading to Subchapter C, Chapter 102, Alcoholic Beverage Code, is amended to read as follows:
SUBCHAPTER C. TERRITORIAL LIMITS ON SALE OF MALT BEVERAGES [~~BEER~~]

SECTION 295. Section 102.51, Alcoholic Beverage Code, is amended to read as follows:

Sec. 102.51. SETTING OF TERRITORIAL LIMITS. (a) Each holder of a brewer's [~~manufacturer's~~] or nonresident brewer's [~~manufacturer's~~] license shall designate territorial limits in this state within which the brands of malt beverages [~~beer~~] the licensee brews [~~manufactures~~] may be sold by general[~~, local,~~] or branch distributor's licensees.

(b) Each holder of a general[~~, local,~~] or branch distributor's license shall enter into a written agreement with each brewer [~~manufacturer~~] from which the distributor purchases malt beverages [~~beer~~] for distribution and sale in this state setting forth the sales territory within which each brand of malt beverage [~~beer~~] purchased by that distributor may be distributed and sold. No holder of a general[~~, local,~~] or branch distributor's license shall make any sales of any brand of malt beverage [~~beer~~] outside the sales territory specified in the written agreement. No such agreement shall interfere with the rights of retailers to purchase malt beverages [~~beer~~] as provided in Section 102.53. A brewer [~~manufacturer~~] may not assign all or any part of the same sales territory to more than one distributor. A copy of the agreement and any amendments to it shall be filed with the administrator.

(c) This Act is promulgated pursuant to the authority of the state under the provisions of the Twenty-first Amendment to the United States Constitution to promote the public interest

SENATE VERSION (IE)

SECTION 295. Same as House version.

SECTION 296. Same as House version.

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in the fair, efficient, and competitive distribution of malt beverages [~~beer~~], to increase competition in such areas, and to assure product quality control and accountability by allowing brewers [~~manufacturers~~] to assign sales territories within this state.

SECTION 296. Section 102.52, Alcoholic Beverage Code, is amended to read as follows:

Sec. 102.52. RIGHTS OF DISTRIBUTORS. Nothing in Section 102.51 [~~of this code~~] limits or alters the right of a holder of a general[~~, local,~~] or branch distributor's license to sell malt beverages [~~beer~~] to any other holder of a general[~~, local,~~] or branch distributor's license, except that a distributor who has purchased malt beverages [~~beer~~] from another distributor may distribute and sell the malt beverages [~~beer~~] only within a territory for which the brewer [~~manufacturer~~] of the brand has designated that it may be sold by the general[~~, local,~~] or branch distributor making the purchase.

SECTION 297. Section 102.53, Alcoholic Beverage Code, is amended to read as follows:

Sec. 102.53. RIGHTS OF RETAILERS. Nothing in Section 102.51 or 102.52 [~~of this code~~] limits or alters the right of a holder of a retail license or permit to purchase malt beverages [~~beer~~] at the licensed premises of any general[~~, local,~~] or branch distributor's licensee in the state and transport those malt beverages [~~that beer~~] to the licensee's [~~his~~] licensed premises, except that the retailer may sell the malt beverages [~~beer~~] only within a territory for which the

SENATE VERSION (IE)

SECTION 297. Same as House version.

SECTION 298. Same as House version.

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brewer [~~manufacturer~~] of the brand has designated that the malt beverages [~~it~~] may be sold by a distributor.

SECTION 298. (a) Effective December 31, 2020, Sections 102.54(a) and (b), Alcoholic Beverage Code, are amended to read as follows:

(a) In addition to any other requirements necessary for issuance or renewal of a distributor's license, the commission [~~or administrator~~] shall require an applicant for a license or a holder of a license to show that the applicant or holder:

(1) has entered into or will acquire a written agreement designating an assigned territory from a manufacturer in accordance with this subchapter and Subchapter D;

(2) has received or has applied for and will maintain all licenses or permits required to engage in business in the assigned territory as a holder of a distributor's license, including any state or federal licenses or permits;

(3) has ordered, received, and stored or has committed to order, receive, and store a sufficient amount of beer that the distributor is authorized to sell to ensure that the distributor can supply the reasonable needs of all retailers in the assigned territory;

(4) has received and stored or has committed to receive and store beer received from a manufacturer in a manner complying with a product quality control standard established by the manufacturer or the commission; and

(5) has or will have the ability to sell, deliver, and promote each brand of beer sold by the distributor to all retailers in the assigned territory;

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SECTION 299. Same as House version.

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(A) in a manner that complies with the product quality control standards of the manufacturer or of the commission; and

(B) on a continuing and recurring basis in response to reasonable market demand for a brand of beer by the retailer or the retailer's customers in the assigned territory.

(b) In determining whether an applicant for or holder of a distributor's license meets the requirement of Subsection (a)(5), the commission [~~or administrator~~] may require the applicant or holder to show that the applicant or holder has or will have:

(1) storage facilities of a sufficient size to store each brand of beer in an amount equal to the demand for the product from all retailers in the holder's or applicant's assigned territory;

(2) an inventory or a commitment to acquire an inventory of each brand of beer in an amount equal to the demand for the brand from all retailers in the holder's or applicant's assigned territory;

(3) a sufficient number of employees to provide the holder or applicant with the ability:

(A) to sell, deliver on a reasonably prompt basis, and promote each brand of beer to all retailers in the holder's or applicant's assigned territory; and

(B) to prepare and submit in a timely manner any fee or tax payments or reports required by any authorized governmental regulatory authority, including the Bureau of Alcohol, Tobacco, and Firearms and the commission; and

(4) a sufficient number of delivery vehicles and rolling stock to provide the holder or the applicant with the capability of transporting, selling, delivering, or promoting each brand of beer to all retailers in the assigned territory.

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(b) Effective September 1, 2021, Sections 102.54(a) and (b), Alcoholic Beverage Code, are amended to read as follows:

(a) In addition to any other requirements necessary for issuance or renewal of a distributor's license, the commission ~~[or administrator]~~ shall require an applicant for a license or a holder of a license to show that the applicant or holder:

(1) has entered into or will acquire a written agreement designating an assigned territory from a brewer ~~[manufacturer]~~ in accordance with this subchapter and Subchapter D;

(2) has received or has applied for and will maintain all licenses or permits required to engage in business in the assigned territory as a holder of a distributor's license, including any state or federal licenses or permits;

(3) has ordered, received, and stored or has committed to order, receive, and store a sufficient amount of malt beverages ~~[beer]~~ that the distributor is authorized to sell to ensure that the distributor can supply the reasonable needs of all retailers in the assigned territory;

(4) has received and stored or has committed to receive and store malt beverages ~~[beer]~~ received from a brewer ~~[manufacturer]~~ in a manner complying with a product quality control standard established by the brewer ~~[manufacturer]~~ or the commission; and

(5) has or will have the ability to sell, deliver, and promote each brand of malt beverage ~~[beer]~~ sold by the distributor to all retailers in the assigned territory:

(A) in a manner that complies with the product quality control standards of the brewer ~~[manufacturer]~~ or of the commission; and

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(B) on a continuing and recurring basis in response to reasonable market demand for a brand of malt beverage [~~beer~~] by the retailer or the retailer's customers in the assigned territory.

(b) In determining whether an applicant for or holder of a distributor's license meets the requirement of Subsection (a)(5), the commission [~~or administrator~~] may require the applicant or holder to show that the applicant or holder has or will have:

(1) storage facilities of a sufficient size to store each brand of malt beverage [~~beer~~] in an amount equal to the demand for the product from all retailers in the holder's or applicant's assigned territory;

(2) an inventory or a commitment to acquire an inventory of each brand of malt beverage [~~beer~~] in an amount equal to the demand for the brand from all retailers in the holder's or applicant's assigned territory;

(3) a sufficient number of employees to provide the holder or applicant with the ability:

(A) to sell, deliver on a reasonably prompt basis, and promote each brand of malt beverage [~~beer~~] to all retailers in the holder's or applicant's assigned territory; and

(B) to prepare and submit in a timely manner any fee or tax payments or reports required by any authorized governmental regulatory authority, including the Bureau of Alcohol, Tobacco, and Firearms and the commission; and

(4) a sufficient number of delivery vehicles and rolling stock to provide the holder or the applicant with the capability of transporting, selling, delivering, or promoting each brand of malt beverage [~~beer~~] to all retailers in the assigned territory.

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SECTION 299. Section 102.54(d)(2), Alcoholic Beverage Code, is amended to read as follows:

(2) "Brewer [~~Manufacturer~~]" means a person who holds a license issued under Chapter 62, 63, or 74.

SECTION 300. Sections 102.55(a) and (c), Alcoholic Beverage Code, are amended to read as follows:

(a) In this subchapter and Subchapter D, and as the terms relate to an agreement between a brewer [~~manufacturer~~] and a distributor describing the sales territory in which a distributor may sell the malt beverages [~~beer~~] of a brewer [~~manufacturer~~]:

(1) "Brand" means any word, name, group of letters, symbol, or trademark or a combination of any word, name, group of letters, symbol, or trademark that is adopted and used by a brewer [~~manufacturer~~] on a label or on packaging to identify a specific [~~beer or~~] malt beverage and to distinguish the [~~beer or~~] malt beverage product from the label or packaging of another [~~beer or~~] malt beverage produced or marketed by any brewer [~~manufacturer~~]. The term does not include the name of the brewer [~~manufacturer~~] unless the name of the brewer [~~manufacturer~~] is included in the name of the brand.

(2) "Brand extension" means a brand that incorporates a brand name or brand logo, or a substantial part of an existing brand name or brand logo, of the same brewer [~~manufacturer~~].

(3) "Brewer" [~~"Manufacturer"~~] means a person who holds a license issued under Chapter 62, 63, or 74.

(c) A brewer [~~manufacturer~~] shall assign a brand extension to the distributor to whom the brand was originally assigned,

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SECTION 300. Same as House version.

SECTION 301. Same as House version.

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if the distributor elects to distribute and sell the brand extension.

SECTION 301. Section 102.56, Alcoholic Beverage Code, is amended to read as follows:

Sec. 102.56. APPLICATION OF TERRITORIAL LIMITS TO CERTAIN PERMIT HOLDERS. (a) This section applies only to a holder of a local distributor's permit under Chapter 23 that operates in a county in which 8,000 or more alcoholic beverage licenses or permits of any type have been issued under this code and are in effect. Subsections (b) and (d) apply only to the delivery of a brand of ~~[ale, beer, or]~~ malt beverage ~~[liquor]~~ to a holder of a mixed beverage permit or a private club permit whose premises is located in a county in which 8,000 or more alcoholic beverage licenses or permits of any type have been issued under this code and are in effect.

(b) A holder of a local distributor's permit under Chapter 23 who has purchased a brand of ~~[ale, beer, or]~~ malt beverage ~~[liquor]~~ from the holder of a general~~[-local,]~~ or branch distributor's license ~~[or from the holder of a general class B wholesaler's or local class B wholesaler's permit]~~ may not deliver the brand of ~~[ale, beer, or]~~ malt beverage ~~[liquor]~~ to any holder of a mixed beverage permit or private club permit whose premises is located inside that county and outside the territory assigned to the distributor ~~[or wholesaler]~~ who sold the product under a territorial limit agreement authorized by this subchapter.

(c) Except as provided by Subsection (d), a holder of a local distributor's permit may purchase a brand of ~~[ale, beer, or]~~ malt beverage ~~[liquor]~~ only from a distributor ~~[or~~

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SECTION 302. Same as House version.

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~~wholesaler~~] who has been assigned the territory where the premises of the holder of the local distributor's permit is located.

(d) A holder of a local distributor's permit who delivers a brand of ~~[ale, beer, or]~~ malt beverage ~~[liquor]~~ to a holder of a mixed beverage permit or private club permit whose premises is located inside that county and outside the assigned territory where the premises of the holder of a local distributor's permit is located must purchase the brand of ~~[ale, beer, or]~~ malt beverage ~~[liquor]~~ from a distributor ~~[or wholesaler]~~ who has been assigned the territory where the premises of the holder of the mixed beverage or private club permit is located.

SECTION 302. The heading to Subchapter D, Chapter 102, Alcoholic Beverage Code, is amended to read as follows:

SUBCHAPTER D. MALT BEVERAGE ~~[BEER]~~
INDUSTRY FAIR DEALING LAW

SECTION 303. Sections 102.71(1), (2), (4), and (5), Alcoholic Beverage Code, are amended to read as follows:

(1) "This Act" means this subchapter which shall have the short title and may be cited as the "Malt Beverage ~~[Beer]~~ Industry Fair Dealing Law."

(2) "Agreement" means any contract, agreement, or arrangement, whether expressed or implied, whether oral or written, for a definite or indefinite period between a brewer ~~[manufacturer]~~ and a distributor pursuant to which a distributor has the right to purchase, resell, and distribute any

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SECTION 303. Same as House version.

SECTION 304. Same as House version.

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brand or brands of malt beverage [~~beer~~] offered by a brewer [~~manufacturer~~].

(4) "Brewer [~~Manufacturer~~]" means those persons licensed under Section 62.01, 63.01, or 74.01.

(5) "Territory" or "sales territory" means the geographic area of distribution and sale responsibility designated by an agreement between a distributor and brewer [~~manufacturer~~], as provided in Section 102.51 of this code, for any brands of the brewer [~~manufacturer~~].

SECTION 304. Sections 102.72(a) and (b), Alcoholic Beverage Code, are amended to read as follows:

(a) This Act is promulgated pursuant to authority of the state under the provisions of the 21st amendment to the United States Constitution to promote the public's interest in the fair, efficient, and competitive distribution of malt beverages [~~beer~~] within this state by requiring brewers [~~manufacturers~~] and distributors to conduct their business relations so as to assure:

(1) that the malt beverage [~~beer~~] distributor is free to manage its business enterprise, including the right to independently establish its selling prices; and

(2) that the public, retailers, and brewers [~~manufacturers~~] are served by distributors who will devote their reasonable efforts and resources to the sales and distribution of all the brewer's [~~manufacturer's~~] products which the distributor has the right to sell and distribute and maintain satisfactory sales levels in the sales territory assigned the distributor.

(b) This Act shall govern all relations between brewers [~~manufacturers~~] and their distributors, including any renewals or amendments to agreements between them, to the

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SECTION 305. Same as House version.

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full extent consistent with the constitutions and laws of this state and the United States.

SECTION 305. Sections 102.73(a) and (c), Alcoholic Beverage Code, are amended to read as follows:

(a) Except as provided in Subsection (c) [~~of this section~~], and except as may be specifically agreed upon at the time by the parties, a brewer [~~no manufacturer~~] or beer distributor may not cancel, fail to renew, or otherwise terminate an agreement unless the brewer [~~manufacturer~~] or distributor furnishes prior notification in accordance with Subsection (b) [~~of this section~~] to the affected party.

(c) A brewer [~~manufacturer~~] or distributor may cancel, fail to renew, or otherwise terminate an agreement without furnishing any prior notification for any of the following reasons:

- (1) in the event of insolvency or bankruptcy or dissolution or liquidation of the other party;
- (2) in the event the other party shall make an assignment for the benefit of creditors or similar disposition of substantially all of the assets of such party's business;
- (3) in the event of a conviction or plea of guilty or no contest to a charge of violating a law or regulation or the revocation or suspension of a license or permit for a period of 30 days or more relating to the business and which materially and adversely affects the party's ability to continue in business; or
- (4) in the event of the failure to pay amounts owing the other when due, upon demand therefor, in accordance with agreed payment terms.

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SECTION 306. Same as House version.

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SECTION 306. Section 102.74, Alcoholic Beverage Code, is amended to read as follows:

Sec. 102.74. CANCELLATION. A malt beverage brewer [~~No manufacturer~~] or [~~beer~~] distributor may not cancel, fail to renew, or otherwise terminate an agreement unless the party intending such action has good cause for such cancellation, failure to renew, or termination and, in any case in which prior notification is required under Section 102.73 [~~of this code~~], the party intending to act has furnished said prior notification and the affected party has not eliminated the reasons specified in such notification as the reasons for cancellation, failure to renew, or termination within 90 days after the receipt of such notification.

SECTION 307. Sections 102.75(a) and (b), Alcoholic Beverage Code, are amended to read as follows:

(a) A brewer may not [~~No manufacturer shall~~]:

- (1) induce or coerce, or attempt to induce or coerce, any distributor to engage in any illegal act or course of conduct;
- (2) require a distributor to assent to any unreasonable requirement, condition, understanding, or term of an agreement prohibiting a distributor from selling the product of any other brewer [~~manufacturer or manufacturers~~];
- (3) fix or maintain the price at which a distributor may resell malt beverages [~~beer~~];
- (4) fail to provide to each distributor of its brands a written contract which embodies the brewer's [~~manufacturer's~~] agreement with its distributor;
- (5) require any distributor to accept delivery of any malt beverages [~~beer~~] or any other item or commodity which shall not have been ordered by the distributor;

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SECTION 307. Same as House version.

SECTION 308. Same as House version.

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(6) adjust the price at which the brewer [~~manufacturer~~] sells malt beverages [~~beer~~] to a distributor based on the price at which a distributor resells malt beverages [~~beer~~] to a retailer, but a brewer [~~manufacturer~~] is free to set its own price so long as any price adjustment is based on factors other than a distributor's increase in the price it charges to a retailer and not intended to otherwise coerce illegal behavior under this section; or

(7) accept payment in exchange for an agreement setting forth territorial rights.

(b) Nothing in this section shall interfere with the rights of a brewer [~~manufacturer~~] or distributor to enter into contractual agreements that could be construed as governing ordinary business transactions, including, but not limited to, agreements concerning allowances, rebates, refunds, services, capacity, advertising funds, promotional funds, or sports marketing funds.

SECTION 308. Section 102.76, Alcoholic Beverage Code, is amended to read as follows:

Sec. 102.76. TRANSFER OF BUSINESS ASSETS OR STOCK. (a) A brewer may not [~~No manufacturer shall~~] unreasonably withhold or delay its approval of any assignment, sale, or transfer of the stock of a distributor or all or any portion of a distributor's assets, distributor's voting stock, the voting stock of any parent corporation, or the beneficial ownership or control of any other entity owning or controlling the distributor, including the distributor's rights and obligations under the terms of an agreement whenever the person or persons to be substituted meet reasonable standards imposed not only upon the distributor

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SECTION 309. Same as House version.

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but upon all other distributors of that brewer [~~manufacturer~~] of the same general class, taking into account the size and location of the sales territory and market to be served. Upon the death of one of the partners of a partnership operating the business of a distributor, a brewer may not [~~no manufacturer shall~~] deny the surviving partner or partners of such partnership the right to become a successor-in-interest to the agreement between the brewer [~~manufacturer~~] and such partnership. Provided that the survivor has been active in the management of the partnership or [~~and/or~~] is otherwise capable of carrying on the business of the partnership.

(b) Notwithstanding the provisions of Subsection (a) [~~of this section~~], upon the death of a distributor a brewer may not [~~no manufacturer shall~~] deny approval for any transfer of ownership to a surviving spouse or adult child of an owner of a distributor; provided, however, that such subsequent transfers of such ownership by such surviving spouse or adult child shall thereafter be subject to the provisions of Subsection (a) [~~of this section~~].

SECTION 309. Section 102.77, Alcoholic Beverage Code, is amended to read as follows:

Sec. 102.77. REASONABLE COMPENSATION. (a) Any brewer [~~manufacturer~~] who, without good cause, cancels, terminates, or fails to renew any agreement, or unlawfully denies approval of, or unreasonably withholds consent, to any assignment, transfer, or sale of a distributor's business assets or voting stock or other equity securities, shall pay such distributor with whom it has an agreement pursuant to Section 102.51 [~~of this code~~] the fair market value of the distributor's business with relation to the affected brand or

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SECTION 310. Same as House version.

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brands. In determining fair market value, consideration shall be given to all elements of value, including ~~[but not limited to]~~ goodwill and going concern value.

(b) In the event that the brewer ~~[manufacturer]~~ and the distributor are unable to mutually agree on whether or not good cause exists for cancellation under Section 102.74 ~~[of this code]~~ or on the reasonable compensation to be paid for the value of the distributor's business, as defined herein, the matter may, at the option of either the distributor or brewer ~~[manufacturer]~~, be submitted to three arbitrators, one of whom shall be named in writing by each party and the third of whom shall be chosen by the two arbiters so selected. Should the arbiters selected fail to choose a third arbiter within 10 days, a judge of a district court in the county in which the distributor's principal place of business is located shall select the third arbiter. Arbitration shall be conducted in accordance with Chapter 171, Civil Practice and Remedies Code ~~[the Texas General Arbitration Act, as amended (Article 224, Revised Civil Statutes of Texas, 1925)]~~. Arbitration costs shall be paid one-half by the distributor and one-half by the brewer ~~[manufacturer]~~. The award of the arbitrators shall be binding on the parties unless appealed within 10 days from the date of the award. All proceedings on appeal shall be in accordance with and governed by Chapter 171, Civil Practice and Remedies Code ~~[the Texas General Arbitration Act, as amended (Article 224, Revised Civil Statutes of Texas, 1925)]~~.

SECTION 310. Section 102.78, Alcoholic Beverage Code, is amended to read as follows:

SENATE VERSION (IE)

SECTION 311. Same as House version.

CONFERENCE

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Sec. 102.78. RIGHT OF FREE ASSOCIATION. A brewer [~~No manufacturer~~] or distributor may not [~~shall~~] restrict or inhibit, directly or indirectly, the right of free association among brewers [~~manufacturers~~] or distributors for any lawful purpose.

SECTION 311. Section 102.79(a), Alcoholic Beverage Code, is amended to read as follows:

(a) If a brewer [~~manufacturer~~] or distributor who is a party to an agreement pursuant to Section 102.51 [~~of this code~~] fails to comply with this Act or otherwise engages in conduct prohibited under this Act, or if a brewer [~~manufacturer~~] and distributor are not able to mutually agree on reasonable compensation under Section 102.77 [~~of this code~~] and the matter is not to be submitted to arbitration, the aggrieved brewer [~~manufacturer~~] or distributor may maintain a civil action in a court of competent jurisdiction in the county in which the distributor's principal place of business is located.

SECTION 312. Section 102.81, Alcoholic Beverage Code, is amended to read as follows:

Sec. 102.81. [~~ALE—AND~~] MALT BEVERAGES [~~LIQUOR~~]. This subchapter and Subchapter C [~~of this chapter~~] apply to agreements concerning all [~~ale and~~] malt beverages [~~liquor~~] in the same manner [~~as they apply to agreements concerning beer, and each particular class of permittee dealing with ale and malt liquor is subject to those provisions that apply to functionally corresponding licensees within the beer industry~~].

SENATE VERSION (IE)

SECTION 312. Same as House version.

SECTION 313. Same as House version.

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SECTION 313. Section 103.08, Alcoholic Beverage Code, is amended to read as follows:

Sec. 103.08. SALE OF MALT BEVERAGE [~~BEER~~]. (a) Any malt beverage [~~beer~~], its container, or its packaging which is seized under the terms of this chapter shall be disposed of in accordance with this section.

(b) On notification that the malt beverage has [~~beer has~~] been seized, the commission shall promptly notify a holder of a general[~~, local,~~] or branch distributor's license who handles the brand of malt beverage [~~beer~~] seized and who operates in the county in which it was seized. If the malt beverage [~~beer~~] was seized in a dry area, the commission shall notify either the general[~~, local,~~] or branch distributor who handles the brand operating nearest the area or the brewer [~~manufacturer~~] brewing the malt beverage [~~beer~~]. The commission and the distributor or brewer [~~manufacturer~~] shall jointly determine whether the malt beverage [~~beer~~] is in a salable condition.

(c) If the malt beverage [~~beer~~] is determined not to be in a salable condition, the commission shall immediately destroy it. If it is determined to be in a salable condition, it shall be offered for sale to the distributor or brewer [~~manufacturer~~]. If offered to a distributor, the malt beverage [~~beer~~] shall be sold at the distributor's cost price less any state taxes which have been paid on the malt beverage [~~beer~~], F.O.B. the distributor's place of business. If the malt beverage [~~beer~~] is offered to a brewer [~~manufacturer~~], it shall be sold at the brewer's [~~manufacturer's~~] cost price to its nearest distributor, less any state taxes which have been paid on the malt beverage [~~beer~~], F.O.B., the nearest distributor's place of business. In either case, the storage or warehousing charges

SENATE VERSION (IE)

SECTION 314. Same as House version.

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necessarily incurred as a result of the seizure shall be added to the cost price.

(d) If the distributor or ~~brewer~~ ~~[manufacturer]~~ does not exercise the right to purchase salable ~~malt beverages~~ ~~[beer]~~ or to purchase returnable bottles, containers, or packages at their deposit price within 10 days, the commission shall sell the ~~malt beverages~~ ~~[beer]~~, bottles, containers, or packages at public or private sale as provided in this chapter.

SECTION 314. Effective September 1, 2019, Section 103.09(b), Alcoholic Beverage Code, is amended to read as follows:

(b) On notification that liquor has been seized, the commission shall promptly notify a holder of a wholesaler's permit ~~or~~ a general class B wholesaler's permit ~~or a local class B wholesaler's permit~~ who handles the brand of liquor seized and who operates in the county in which it was seized. If the liquor was seized in a dry area, the commission shall notify the wholesaler who handles the brand seized who operates nearest the area. The commission and the wholesaler shall jointly determine whether the liquor is in a salable condition.

SECTION 315. Section 104.01(a), Alcoholic Beverage Code, is amended to read as follows:

(a) ~~A~~ ~~[No]~~ person authorized to sell ~~malt beverages~~ ~~[beer]~~ at retail, ~~or~~ ~~[not]~~ the person's agent, servant, or employee, may not engage in or permit conduct on the premises of the retailer which is lewd, immoral, or offensive to public

SENATE VERSION (IE)

SECTION 315. Same as House version.

SECTION 316. Same as House version.

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decency, including ~~[-, but not limited to,]~~ any of the following acts:

- (1) the use of loud and vociferous or obscene, vulgar, or indecent language, or permitting its use;
- (2) the exposure of a person or permitting a person to expose himself or herself;
- (3) rudely displaying or permitting a person to rudely display a pistol or other deadly weapon in a manner calculated to disturb persons in the retail establishment;
- (4) solicitation of any person to buy drinks for consumption by the retailer or any of the retailer's employees;
- (5) being intoxicated on the licensed premises;
- (6) permitting lewd or vulgar entertainment or acts;
- (7) permitting solicitations of persons for immoral or sexual purposes;
- (8) failing or refusing to comply with state or municipal health or sanitary laws or ordinances; or
- (9) possession of a narcotic or synthetic cannabinoid or any equipment used or designed for the administering of a narcotic or a synthetic cannabinoid or permitting a person on the licensed premises to do so.

SECTION 316. Section 104.04, Alcoholic Beverage Code, is amended to read as follows:

Sec. 104.04. DRAFT MALT BEVERAGE DISPENSER: SIGN REQUIRED. A ~~[No]~~ retail dealer may not dispense draft ~~[beer,]~~ malt beverages ~~[liquor, or ale]~~ unless each faucet or other dispensing apparatus is equipped with a sign clearly indicating the name or brand of the product being dispensed through the faucet or apparatus. The sign must be in full sight of the purchaser, and the letters on it must be legible.

SENATE VERSION (IE)

SECTION 317. Same as House version.

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SECTION 317. Sections 104.05(a), (b), (c), and (e), Alcoholic Beverage Code, are amended to read as follows:

(a) This section applies to a permittee or licensee who is authorized to sell ~~[beer,] malt beverages [liquor, or ale]~~ to an ultimate consumer for consumption off the permitted or licensed premises.

(b) The holder of a permit or license described in Subsection (a) ~~[of this section]~~ may resell ~~[beer,] malt beverages [liquor, or ale]~~ only in the packaging in which the holder received the ~~[beer,] malt beverages [liquor, or ale]~~ or may resell the contents of the packages as individual containers.

(c) Except for purposes of resale as individual containers, a licensee or permittee may not:

(1) mutilate, tear apart, or cut apart original packaging in which ~~[beer,] malt beverages were [liquor, or ale was]~~ received; or

(2) repackage ~~[beer,] malt beverages [liquor, or ale]~~ in a manner misleading to the consumer or that results in required labeling being omitted or obscured.

(e) To assure and control product quality, the holder of a distributor's license, ~~[wholesaler's permit, or class B wholesaler's permit,]~~ at the time of a regular delivery, may withdraw, with the permission of the retailer, a quantity of ~~[beer, ale, or] malt beverages [liquor]~~ in its undamaged original packaging from the retailer's stock, if:

(1) the distributor~~[, wholesaler, or class B wholesaler]~~ replaces the stock with ~~[beer, ale, or] malt beverages [liquor]~~ of identical brands, quantities, and packages as the ~~[beer, ale, or] malt beverages [liquor]~~ withdrawn;

SECTION 318. Same as House version.

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- (2) the stock is withdrawn before the date considered by the brewer [~~manufacturer~~] of the product to be the date the product becomes inappropriate for sale to a consumer; and
- (3) the quantity of stock withdrawn does not exceed the equivalent of 25 cases of 24 12-ounce containers.

SECTION 318. Sections 105.03(c) and (d), Alcoholic Beverage Code, are amended to read as follows:

(c) In a city or county having a population of 800,000 or more, according to the last preceding federal census, or 500,000 or more, according to the 22nd Decennial Census of the United States, as released by the Bureau of the Census on March 12, 2001, a holder of a mixed beverage permit who holds a retailer late hours certificate [~~permit~~] may also sell and offer for sale mixed beverages between midnight and 2 a.m. on any day.

(d) In a city or county other than a city or county described by Subsection (c), the extended hours prescribed in Subsection (c) [~~of this section~~] are effective for the sale of mixed beverages and the offer to sell them by a holder of a mixed beverage permit who holds a retailer [~~beverages~~] late hours certificate [~~permit~~]:

(1) in the unincorporated areas of the county if the extended hours are adopted by an order of the commissioners court; and

(2) in an incorporated city or town if the extended hours are adopted by an ordinance of the governing body of the city or town.

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SECTION 319. Same as House version.

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SECTION 319. (a) Effective September 1, 2019, Section 105.04, Alcoholic Beverage Code, is amended to read as follows:

Sec. 105.04. HOURS OF SALE: WINE AND BEER RETAILER. The hours of sale and delivery for alcoholic beverages sold under a wine and beer retailer's permit or a wine and beer retailer's off-premise permit are the same as those prescribed for the sale of beer under Section 105.05 [of this code, except that no sale shall be allowed between 2 a.m. and noon on Sunday].

(b) Effective September 1, 2021, Section 105.04, Alcoholic Beverage Code, is amended to read as follows:

Sec. 105.04. HOURS OF SALE: WINE AND MALT BEVERAGE [~~BEER~~] RETAILER. The hours of sale and delivery for alcoholic beverages sold under a wine and malt beverage [~~beer~~] retailer's permit or a wine and malt beverage [~~beer~~] retailer's off-premise permit are the same as those prescribed for the sale of malt beverages [~~beer~~] under Section 105.05 [of this code, except that no sale shall be allowed between 2 a.m. and noon on Sunday].

SECTION 320. (a) Effective September 1, 2019, Section 105.05(b), Alcoholic Beverage Code, is amended to read as follows:

(b) A person may sell, offer for sale, or deliver beer between 7 a.m. and midnight on any day except Sunday. On Sunday a person [he] may sell beer between midnight and 1:00 a.m. and between noon and midnight, except that:

(1) permittees or licensees authorized to sell for on-premise consumption may sell beer between 10:00 a.m. and noon if

SENATE VERSION (IE)

SECTION 320.

Section 105.04, Alcoholic Beverage Code, is amended to read as follows:

Sec. 105.04. HOURS OF SALE: WINE AND MALT BEVERAGE [~~BEER~~] RETAILER. The hours of sale and delivery for alcoholic beverages sold under a wine and malt beverage [~~beer~~] retailer's permit or a wine and malt beverage [~~beer~~] retailer's off-premise permit are the same as those prescribed for the sale of malt beverages [~~beer~~] under Section 105.05 [of this code], except that no sale shall be allowed between 2 a.m. and noon on Sunday.

SECTION 321.

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the beer is served to a customer during the service of food to the customer; and

(2) holders of a retail dealer's on-premise license or a retail dealer's off-premise license may also sell beer for off-premise consumption between 10:00 a.m. and noon.

(b) Effective September 1, 2021,

Section 105.05, Alcoholic Beverage Code, is amended to read as follows:

Sec. 105.05. HOURS OF SALE: MALT BEVERAGES [~~BEER~~]. (a) A [~~No~~] person may sell, offer for sale, or deliver malt beverages only [~~beer~~] at a [~~any~~] time [~~not~~] permitted by this section.

(b) A person may sell, offer for sale, or deliver malt beverages [~~beer~~] between 7 a.m. and midnight on any day except Sunday. On Sunday a person [~~he~~] may sell malt beverages [~~beer~~] between midnight and 1:00 a.m. and between noon and midnight, except that:

(1) permittees or licensees authorized to sell for on-premise consumption may sell malt beverages [~~beer~~] between 10:00 a.m. and noon if the malt beverages are [~~beer is~~] served to a customer during the service of food to the customer; and

(2) holders of a retail dealer's on-premise license or a retail dealer's off-premise license may also sell malt beverages for off-premise consumption between 10:00 a.m. and noon.

(c) In a city or county having a population of 800,000 or more, according to the last preceding federal census, or 500,000 or more, according to the 22nd Decennial Census of the United States, as released by the Bureau of the Census on March 12, 2001, a holder of a retail dealer's on-premise license who holds a retailer late hours certificate [~~license~~] may also sell, offer for sale, and deliver malt beverages [~~beer~~] between midnight and 2 a.m. on any day.

SENATE VERSION (IE)

Section 105.05, Alcoholic Beverage Code, is amended to read as follows:

Sec. 105.05. HOURS OF SALE: MALT BEVERAGES [~~BEER~~]. (a) A [~~No~~] person may sell, offer for sale, or deliver malt beverages only [~~beer~~] at a [~~any~~] time [~~not~~] permitted by this section.

(b) A person may sell, offer for sale, or deliver malt beverages [~~beer~~] between 7 a.m. and midnight on any day except Sunday. On Sunday a person [~~he~~] may sell malt beverages [~~beer~~] between midnight and 1:00 a.m. and between noon and midnight, except that permittees or licensees authorized to sell for on-premise consumption may sell malt beverages [~~beer~~] between 10:00 a.m. and noon if the malt beverages are [~~beer is~~] served to a customer during the service of food to the customer.

(c) In a city or county having a population of 800,000 or more, according to the last preceding federal census, or 500,000 or more, according to the 22nd Decennial Census of the United States, as released by the Bureau of the Census on March 12, 2001, a holder of a retail dealer's on-premise license who holds a retailer late hours certificate [~~license~~] may also sell, offer for sale, and deliver malt beverages [~~beer~~] between midnight and 2 a.m. on any day.

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(d) In a city or county other than a city or county described by Subsection (c), the extended hours prescribed in Subsection (c) [~~of this section,~~] or any part of the extended hours prescribed in Subsection (c) [~~of this section~~] are effective for the sale, offer to sell, and delivery of malt beverages [~~beer~~] by a holder of a retail dealer's on-premise license who holds a retailer late hours certificate [~~license~~]:

(1) in the unincorporated areas of the county if the extended hours are adopted by an order of the commissioners court; and

(2) in an incorporated city or town if the extended hours are adopted by an ordinance of the governing body of the city or town.

(e) A violation of a city ordinance or order of a commissioners court adopted pursuant to Subsection (d) [~~of this section~~] is a violation of this code.

SECTION 321. Section 105.051, Alcoholic Beverage Code, is amended to read as follows:

Sec. 105.051. SALE OF MALT BEVERAGES [~~BEER~~] BY DISTRIBUTOR'S LICENSEE. The holder of a general[~~beer,~~] or branch distributor's license may sell, offer for sale, or deliver malt beverages [~~beer~~] 24 hours a day Monday through Saturday and between midnight and 1 a.m. and between noon and midnight on Sunday.

SECTION 322. Section 105.082, Alcoholic Beverage Code, is amended to read as follows:

Sec. 105.082. HOURS OF SALE AND CONSUMPTION: BREWER [~~OR MANUFACTURER~~]. [~~(a) The holder of a~~

SENATE VERSION (IE)

(d) In a city or county other than a city or county described by Subsection (c), the extended hours prescribed in Subsection (c) [~~of this section,~~] or any part of the extended hours prescribed in Subsection (c) [~~of this section~~] are effective for the sale, offer to sell, and delivery of malt beverages [~~beer~~] by a holder of a retail dealer's on-premise license who holds a retailer late hours certificate [~~license~~]:

(1) in the unincorporated areas of the county if the extended hours are adopted by an order of the commissioners court; and

(2) in an incorporated city or town if the extended hours are adopted by an ordinance of the governing body of the city or town.

(e) A violation of a city ordinance or order of a commissioners court adopted pursuant to Subsection (d) [~~of this section~~] is a violation of this code.

SECTION 322. Same as House version.

SECTION 323. Same as House version.

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~~brewer's permit may sell, offer for sale, and deliver ale or malt liquor and a person may consume ale or malt liquor on the brewer's premises:~~

~~[(1) between 8 a.m. and midnight on any day except Sunday; and~~

~~[(2) between 10 a.m. and midnight on Sunday.~~

~~[(b)] The holder of a brewer's ~~manufacturer's~~ license may sell, offer for sale, and deliver malt beverages ~~beer~~ and a person may consume malt beverages ~~beer~~ on the brewer's ~~manufacturer's~~ premises:~~

~~(1) between 8 a.m. and midnight on any day except Sunday; and~~

~~(2) between 10 a.m. and midnight on Sunday.~~

SECTION 323. Effective September 1, 2019, Section 106.09(d), Alcoholic Beverage Code, is amended to read as follows:

(d) ~~Δ [The fact that a] person who is 18, 19, or 20 years of age is not prohibited from acting as an agent [a ground for refusal of an original or renewal permit or license issued] under Chapter 35, 36, or 73, provided the [that such a] person [to whom a permit or license is issued] may carry out the activities authorized by those chapters only while in the actual course and scope of the person's employment.~~

SECTION 324. Section 106.16(b), Alcoholic Beverage Code, is amended to read as follows:

(b) Notwithstanding any other law, a minor may taste an alcoholic beverage if:

(1) the minor:

SENATE VERSION (IE)

SECTION 324. Same as House version.

SECTION 325. Same as House version.

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- (A) is at least 18 years old; and
- (B) is enrolled:
 - (i) as a student at a public or private institution of higher education or a career school or college that offers a program in culinary arts, viticulture, enology or wine technology, brewing or malt beverage [~~beer~~] technology, or distilled spirits production or technology; and
 - (ii) in a course that is part of a program described by Subparagraph (i);
- (2) the beverage is tasted for educational purposes as part of the curriculum for the course described by Subdivision (1)(B)(ii);
- (3) the beverage is not purchased by the minor; and
- (4) the service and tasting of the beverage is supervised by a faculty or staff member who is at least 21 years of age.

SECTION 325. Section 107.02, Alcoholic Beverage Code, is amended to read as follows:

Sec. 107.02. TRANSPORTATION OF MALT BEVERAGES [~~BEER~~]: STATEMENT REQUIRED. (a) It is lawful for a person to transport malt beverages [~~beer~~] from any place where its sale, manufacture, or distribution is authorized to another place in the state where its sale, manufacture, or distribution is authorized, or from the state boundary to a place where its sale, manufacture, or distribution is authorized, even though the route of transportation may cross a dry area.

(a-1) A person transporting malt beverages [~~beer~~] to the premises of a distributor, including to a location from which the distributor is temporarily conducting business under

SECTION 326. Same as House version.

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Section 109.62, shall provide to the consignee a shipping invoice that clearly states:

(1) the name and address of the consignor and consignee;
(2) the origin and destination of the shipment; and
(3) any other information required by this code or commission rule, including the brands, sizes of containers, and quantities of malt beverages [~~beer~~] contained in the shipment.

(b) A shipment of malt beverages [~~beer~~] must be accompanied by a written statement furnished and signed by the shipper showing:

(1) the name and address of the consignor and consignee;
(2) the origin and destination of the shipment; and
(3) any other information required by the commission or administrator.

(c) The person in charge of the shipment while it is being transported shall exhibit the written statement to any representative of the commission or peace officer who demands to see it. The statement shall be accepted by the representative or peace officer as prima facie evidence of the legal right to transport the malt beverages [~~beer~~].

(d) A person who transports malt beverages [~~beer~~] not accompanied by the required statement, or who fails to exhibit the statement after a lawful demand, violates this code.

SECTION 326. Section 107.04, Alcoholic Beverage Code, is amended to read as follows:

Sec. 107.04. DELIVERY OF MALT BEVERAGES [~~BEER~~] IN DRY AREA. A common carrier may not deliver malt beverages [~~beer~~] in a dry area unless the malt beverages

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SECTION 327. Same as House version.

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~~are~~ ~~[it-is]~~ consigned to a ~~[local-or]~~ general distributor's licensee who has previously stated that the licensee ~~[he]~~ intends to transport the malt beverages ~~[it]~~ to a licensed place of business in a wet area. A common carrier who transports malt beverages ~~[beer]~~ to a distributor in a dry area shall comply strictly with this section and Section 107.02 ~~[of this code]~~.

SECTION 327. Section 107.06, Alcoholic Beverage Code, is amended to read as follows:

Sec. 107.06. IMPORTATION OF MALT BEVERAGES ~~[BEER]~~. (a) ~~A~~ ~~[No]~~ person may not import malt beverages ~~[beer]~~ into the state except the holder of a brewer's ~~[manufacturer's]~~ or general~~[-local,]~~ or branch distributor's license.

(b) ~~A~~ ~~[No]~~ person may not transport malt beverages ~~[beer]~~ into this state unless the malt beverages are ~~[it-is]~~ consigned and delivered to one of the licensees named in Subsection (a) ~~[of this section]~~.

(c) This section does not apply to the importation or transportation of military malt beverages ~~[beer]~~ consigned to a military installation or to the importation of malt beverages ~~[beer]~~ as authorized under Section 107.07 ~~[of this code]~~.

SECTION 328. Section 107.09, Alcoholic Beverage Code, is amended to read as follows:

Sec. 107.09. SINGLE INVOICE AUTHORIZED. If the holder of a general~~[-local,]~~ or branch distributor's license also holds a wholesaler's or~~[-]~~ general class B wholesaler's~~[- or local class B wholesaler's]~~ permit, a written statement or

SENATE VERSION (IE)

SECTION 328. Same as House version.

SECTION 329. Same as House version.

CONFERENCE

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invoice required as evidence of the sale of malt beverages [~~beer~~] or liquor may be on the same business form that is designed to reflect the sale of both liquor and malt beverages [~~beer~~], if all information required by this code to be shown on a statement or invoice is reflected on the form and all other records required by this code are maintained.

SECTION 329. Section 107.10, Alcoholic Beverage Code, is amended to read as follows:

Sec. 107.10. TRANSPORTATION OF WINE COOLERS OR SPIRIT COOLERS. (a) A holder of a wholesaler's or[~~or~~] general class B wholesaler's [~~or local class B wholesaler's~~] permit may transport and sell wine coolers without a prior order if the holder complies with the provisions of this code and rules of the commission applicable to the transportation and sale of malt beverages [~~beer~~] by a holder of a distributor's license.

(b) A holder of a wholesaler's permit may transport and sell spirit coolers without a prior order if the holder complies with the provisions of this code and rules of the commission applicable to the transportation and sale of malt beverages [~~beer~~] by a holder of a distributor's license.

SECTION 330. Section 108.01(a), Alcoholic Beverage Code, is amended to read as follows:

(a) A brewer [~~No manufacturer~~] or distributor directly or indirectly, or through a subsidiary, affiliate, agent, employee, officer, director, or firm member, may not publish, disseminate, or cause to be published or disseminated by any

SENATE VERSION (IE)

SECTION 330. Same as House version.

SECTION 331. Same as House version.

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medium enumerated in Subsection (b) an advertisement of a brewery product that:

- (1) causes or is reasonably calculated to cause deception of the consumer with respect to the product advertised;
- (2) directly or by ambiguity, omission, or inference tends to create a misleading impression;
- (3) is untrue in any particular;
- (4) disparages a competitor's product; or
- (5) is obscene or indecent.

SECTION 331. Section 108.03, Alcoholic Beverage Code, is amended to read as follows:

Sec. 108.03. REGULATION OF PROMOTIONAL ACTIVITIES. The commission shall adopt rules permitting and regulating the use of business cards, menu cards, stationery, service vehicles and equipment, and delivery vehicles and equipment that bear alcoholic beverage advertising. The commission shall also adopt rules permitting and regulating the use of insignia advertising malt beverages [~~beer~~], distilled spirits, or wine by brand name on caps, regalia, or uniforms worn by employees of manufacturers, distributors, distillers, or wineries or by participants in a game, sport, athletic contest, or revue if the participants are sponsored by a manufacturer, distributor, distiller, or winery.

SECTION 332. Same as House version.

SECTION 332. Section 108.035, Alcoholic Beverage Code, is amended to read as follows:

Sec. 108.035. PACKAGING OF CERTAIN PROMOTIONAL ITEMS AUTHORIZED.

SECTION 333. Same as House version.

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Notwithstanding any other provision of this code, a person who holds a brewer's [~~permit, nonresident brewer's permit, manufacturer's~~] license[;] or nonresident brewer's [~~manufacturer's~~] license, or the person's agent or employee, may package alcoholic beverages in combination with other items if the package is designed to be delivered intact to the [~~wholesaler or~~] distributor and the additional items are branded and have no value or benefit to the retailer other than that of having the potential of attracting purchases and promoting sales.

SECTION 333. Section 108.04, Alcoholic Beverage Code, is amended to read as follows:

Sec. 108.04. ACTS OF PROMOTIONAL OR COURTESY NATURE: ADMINISTRATIVE DISCRETION. The commission may promulgate rules which shall set definite limitations consistent with the general provisions of this code, relaxing the restrictions of Sections 102.07, 102.14, 102.15, and 108.06, with respect to:

- (1) the sale or gift of novelties advertising the product of a brewer [~~manufacturer~~] or distributor;
- (2) the making of gifts to civic, religious, or charitable organizations;
- (3) the cleaning and maintenance of coil connections for dispensing draught malt beverages [~~beer~~];
- (4) the lending of equipment for special occasions; and
- (5) acts of a purely courtesy nature.

SECTION 334. Section 108.041, Alcoholic Beverage Code, is amended to read as follows:

SENATE VERSION (IE)

SECTION 334. Same as House version.

SECTION 335. Same as House version.

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Sec. 108.041. CARBON DIOXIDE FILTERS PROVIDED TO RETAILERS. (a) A brewer [~~manufacturer~~] or distributor of malt beverages [~~beer~~] may provide carbon dioxide filters to malt beverage [~~beer~~] retailers for draught systems using carbon dioxide or a carbon dioxide and nitrogen blend, commonly referred to as "beer gas."

(b) The cost of providing, maintaining, and replacing the carbon dioxide filters shall be borne by the brewer [~~manufacturer~~].

SECTION 335. Effective September 1, 2019, Section 108.042, Alcoholic Beverage Code, is amended to read as follows:

Sec. 108.042. ACTS OF PROMOTIONAL OR COURTESY NATURE: WINE DISPENSING. The commission shall adopt rules that set definite limitations, consistent with the general provisions of this code, relaxing the restrictions of Section 102.07 to allow the holder of a wholesaler's or ~~general class B wholesaler's~~ ~~or local class B wholesaler's~~ permit or the permit holder's agent to perform the cleaning and maintenance of coil connections for the dispensing of wine.

SECTION 336. Section 108.05, Alcoholic Beverage Code, is amended to read as follows:

Sec. 108.05. ALLOWANCE FOR ADVERTISEMENT OR DISTRIBUTION. A brewer [~~No manufacturer~~] or distributor, directly or indirectly, or through a subsidiary, affiliate, agent, employee, officer, director, or firm member,

SENATE VERSION (IE)

SECTION 336. Same as House version.

SECTION 337. Same as House version.

CONFERENCE

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may not pay or make an allowance to a retail dealer for an advertising or distribution service.

SECTION 337. Section 108.06, Alcoholic Beverage Code, is amended to read as follows:

Sec. 108.06. PRIZES AND PREMIUMS. A brewer [~~No manufacturer~~] or distributor, directly or indirectly, or through a subsidiary, affiliate, agent, employee, officer, director, or firm member, may not offer a prize, premium, gift, or other inducement to a dealer in or consumer of brewery products.

SECTION 338. Sections 108.061(a) and (e), Alcoholic Beverage Code, are amended to read as follows:

(a) Notwithstanding the prohibition against prizes given to a consumer in Section 108.06 and subject to the rules of the commission, a [~~manufacturer, nonresident manufacturer, or~~] brewer or nonresident brewer may offer a prize to a consumer of legal drinking age if the offer is a part of a promotional sweepstakes activity.

(e) If a licensee [~~or permittee~~] conducts a private event authorized by Subsection (d) at a retailer's premises, the licensee [~~or permittee~~] shall pay the retailer the fair market value for the use of the premises. The retailer must retain control of the sale and service of alcoholic beverages at the private event.

SENATE VERSION (IE)

SECTION 338. Same as House version.

SECTION 339. Same as House version.

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SECTION 339. Effective September 1, 2019, Section 108.08(b), Alcoholic Beverage Code, is amended to read as follows:

(b) A part of the cost of advertising revenue paid by a manufacturer to an entity under this section may not be charged to or paid, directly or indirectly, by the holder of a wholesaler's permit, general class B wholesaler's permit, ~~[local class B wholesaler's permit,]~~ local distributor's permit, or general distributor's license~~[, or local distributor's license]~~, except through the price paid by that holder for products purchased from the holders' supplier.

SECTION 340. Section 108.10, Alcoholic Beverage Code, is amended to read as follows:

Sec. 108.10. BRANDED PROMOTIONAL VEHICLES. Notwithstanding any other provision of this code, the holder of a brewer's ~~[manufacturer's]~~ or nonresident brewer's ~~[manufacturer's]~~ license or a nonresident seller's permit may display a branded promotional vehicle on the licensed or permitted premises of a retailer, whether outside or inside a structure on the premises, for not more than five hours per day.

SECTION 341. Effective September 1, 2019, Section 108.52(c), Alcoholic Beverage Code, is amended to read as follows:

(c) The commission shall adopt reasonable rules relating to the type of outdoor advertising retail ~~[Retail]~~ licensees and permittees may erect or maintain on the retailer's premises. A violation of a rule adopted under this section is a violation

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SECTION 340. Same as House version.

SECTION 341. Same as House version.

SECTION 342. Same as House version.

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~~of this code. [one sign at each place of business which may read as follows:~~

~~[(1) if a beer retailer, the sign may read "Beer";~~

~~[(2) if an off premises beer retailer, the sign may read "Beer" or "Beer to Go";~~

~~[(3) if a wine and beer retailer, the sign may read "Beer," "Beer and Wine," or "Beer, Wine and Ale";~~

~~[(4) if a wine and beer off premises retailer, the sign may read "Beer," "Beer to Go," "Beer and Wine," "Beer and Wine to Go," "Beer, Wine and Ale," or "Beer, Wine and Ale to Go";~~

~~[(5) if a package store permittee, the sign may read "Package Store," "Liquors," or "Wines and Liquors," and if a retail dealer's off premise license is also held, the sign may read "Package Store," "Wines, Liquors and Beer," or "Wine, Liquors and Beer to Go"; or~~

~~[(6) if a wine only package store permittee, the sign may read "Wine" or "Wines," and if a retail dealer's off premise license is also held, the sign may read "Wines and Beer," "Wine and Beer," or "Wine and Beer to Go."]~~

SECTION 342. Effective September 1, 2019, Section 108.53, Alcoholic Beverage Code, is amended to read as follows:

Sec. 108.53. ADVERTISING [~~BILLBOARDS AND ELECTRIC~~] SIGNS[: ~~WHEN PERMIT IS REQUIRED~~].

Consistent [(a) ~~No person may erect a billboard or electric sign advertising an alcoholic beverage within 200 feet of a retail establishment authorized to sell that beverage unless he has first obtained a permit for that purpose from the commission. No permit is required for a billboard or electric~~

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SECTION 343. Same as House version.

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~~sign that is not located within 200 feet of a retail establishment authorized to sell the advertised alcoholic beverage.~~

~~[(b) The commission or administrator shall provide permit application forms, which may contain any information the commission or administrator deems necessary. The application shall contain a statement that the erection or maintenance of the billboard or electric sign will not have the effect of advertising or directing patronage to a particular retail establishment authorized to sell alcoholic beverages. Application shall be made under oath, addressed to the commission or administrator.~~

~~[(c) The commission or administrator shall issue a permit if either of them finds that all statements in the application are true and the erection or maintenance of the billboard or electric sign will not be contrary to this code or to a rule of the commission. Otherwise, the commission or administrator shall refuse to issue a permit.~~

~~[(d) Notwithstanding the restrictions imposed by this section, but consistent] with other provisions of this code, the commission shall promulgate rules allowing for signs advertising alcoholic beverages at charitable or civic events such as fairs, rodeos, or other events of a temporary nature. This section ~~[subsection]~~ does not authorize, nor shall any rule of the commission authorize, a retailer of alcoholic beverages to derive, directly or indirectly, any money or consideration of any kind as a result of alcoholic beverage advertising, and the commission's rules shall reflect the intent that the charity or civic endeavor receive the proceeds, if any, from such advertising signs.~~

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SECTION 343. Section 108.73(1), Alcoholic Beverage Code, is amended to read as follows:

(1) "Independent concessionaire" means a licensed or permitted member of the retail tier or a holder of a private club registration permit, mixed beverage permit [~~eaterer's permit~~], or food and beverage certificate who:

(A) has a written concession agreement from the owner, operator, or lessee of a public entertainment facility;

(B) receives no monetary benefit, directly or indirectly, by any scheme or device or in any form or degree from the alcoholic beverage industry including a benefit in the form of capital improvements, furniture, fixtures, or equipment, unless otherwise authorized by this code or commission rules; and

(C) is not owned, in whole or in part, by the public entertainment facility, or a subsidiary, agent, manager, or company managing the facility, and who does not own, in whole or in part, or manage the public entertainment facility.

SECTION 344. Section 109.04, Alcoholic Beverage Code, is amended to read as follows:

Sec. 109.04. SALE OF MALT BEVERAGES [~~BEER~~]:
PROCEDURE. (a) When the commission is notified under this subchapter of the acquisition of malt beverages [~~beer~~] or malt beverage [~~its~~] containers or original packages, it shall immediately notify a holder of a general[~~, local,~~] or branch distributor's license who handles the brand of malt beverages [~~beer~~] and who operates in the county where the malt beverages are [~~it is~~] located or, if the malt beverages are [~~it is~~] located in a dry area or if no distributor operates in the

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SECTION 344. Same as House version.

SECTION 345. Same as House version.

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county, the nearest distributor handling the brand or the brewer ~~[manufacturer]~~ who brewed the malt beverages ~~[it]~~.

(b) The insurer or insurance salvor, the commission, and the distributor or brewer ~~[manufacturer]~~ shall jointly agree whether the malt beverages are ~~[beer is]~~ salable. If the malt beverages are ~~[it is]~~ determined to be unsalable, the commission shall destroy the malt beverages ~~[it]~~. If the malt beverages are ~~[it is]~~ determined to be salable, the brewer ~~[manufacturer]~~ or distributor shall be given the opportunity to purchase the malt beverages ~~[it]~~. A distributor may purchase malt beverages ~~[beer]~~ at the cost price less any state taxes that have been paid, F.O.B. its place of business. A brewer ~~[manufacturer]~~ may purchase malt beverages ~~[beer]~~ at the cost price to the nearest distributor of the brand, less any state taxes that have been paid, F.O.B. that distributor's place of business. A brewer ~~[manufacturer]~~ or distributor may purchase returnable bottles, containers, or packages at their deposit price.

(c) If the distributor or brewer ~~[manufacturer]~~ does not exercise the right to purchase the merchandise within 10 days after being given the opportunity to purchase it, the insurer or insurance salvor may sell it to any qualified licensee or permittee as provided in Section 109.01 ~~[of this code]~~.

SECTION 345. Effective September 1, 2019, Section 109.05(a), Alcoholic Beverage Code, is amended to read as follows:

(a) When the commission is notified under this subchapter of the acquisition of liquor or its containers or original packages, it shall immediately notify the holder or holders of wholesaler's or ~~[;]~~ class B wholesaler's ~~[; or local class B~~

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SECTION 346. Same as House version.

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~~wholesaler's~~] permits who handle and regularly sell the brand or brands of liquor involved and who operate in the area where the liquor is located, or who operate in the nearest wet area if the liquor is in a dry area. The commission shall also notify the nonresident seller's permittees who handle the brand or brands of liquor involved, or the nonresident seller's agents [~~manufacturer's agent's permittees~~] who represent those nonresident seller's permittees.

SECTION 346. Section 109.08, Alcoholic Beverage Code, is amended to read as follows:

Sec. 109.08. EXCLUSION. Notwithstanding any other provision of this code, a ~~no~~ person engaged in business as a distiller, brewer, [~~manufacturer,~~] winery, or any other manufacturing level producer of liquor or malt beverages [~~beer~~], or their wholesalers or distributors, may not directly or indirectly or through an affiliate require, by agreement or otherwise, that any retailer engaged in the sale of liquor or malt beverages [~~beer~~] purchase any such products from such person to the exclusion in whole or in part of liquor or malt beverages [~~beer~~] sold or offered for sale by other persons, or prevent, deter, hinder, or restrict other persons from selling or offering for sale any such products to any retailer.

SECTION 347. Section 109.21, Alcoholic Beverage Code, is amended to read as follows:

Sec. 109.21. HOME PRODUCTION OF WINE OR [~~, ALE,~~] MALT BEVERAGES [~~LIQUOR, OR BEER~~]. (a) The head of a family or an unmarried adult may produce for the person's use or the use of the person's [~~his~~] family [~~or~~

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SECTION 347. Same as House version.

SECTION 348. Same as House version.

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~~himself~~] not more than 200 gallons of wine ~~or~~[~~ale,~~] malt beverages [~~liquor, or beer,~~] per year. No license or permit is required.

(b) The commission may prohibit the use of any ingredient it finds detrimental to health or susceptible of use to evade this code. Only wine made from the normal alcoholic fermentation of the juices of dandelions or grapes, raisins, or other fruits may be produced under this section. Only ~~ale,~~ malt beverages [~~liquor, or beer~~] made from the normal alcoholic fermentation of malted barley with hops, or their products, and with or without other malted or unmalted cereals, may be produced under this section. The possession of wine ~~or~~[~~ale,~~] malt beverages [~~liquor, or beer~~] produced under this section is not an offense if the person making it complies with all provisions of this section and the wine ~~or~~[~~ale,~~] malt beverages ~~are~~ [~~liquor, or beer is~~] not distilled, fortified, or otherwise altered to increase their [~~its~~] alcohol content.

(c) There is no annual state fee for beverages produced in compliance with this section.

SECTION 348. Section 109.22, Alcoholic Beverage Code, is amended to read as follows:

Sec. 109.22. DELIVERY OF HOME-PRODUCED WINE ~~OR~~[~~ALE,~~] MALT BEVERAGES [~~LIQUOR, OR BEER~~] FOR CERTAIN PURPOSES. (a) This section applies only to a person who is authorized under Section 109.21(a) to produce wine ~~or~~[~~ale,~~] malt beverages [~~liquor, or beer~~].

(b) For the purpose of participating in an organized tasting, evaluation, competition, or literary review, a person to whom this section applies may deliver wine ~~or~~[~~ale,~~] malt

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SECTION 349. Same as House version.

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beverages [~~liquor, or beer~~] produced and manufactured by the person to locations that are not licensed under this code for the purpose of submitting those products to an evaluation at an organized tasting competition that is closed to the general public or by a reviewer whose reviews are published if:

- (1) no charge of any kind is made for the wine or [~~ale,~~] malt beverages [~~liquor, or beer~~], for their [~~its~~] delivery, or for attendance at the event; and
- (2) the commission consents in writing to the delivery.
- (c) Nothing in this section shall be construed to authorize an increase in the quantity of wine or [~~ale,~~] malt beverages [~~liquor, or beer~~] authorized to be produced by a person under the authority of Section 109.21(a) [~~of this code~~].

SECTION 349. Section 109.32, Alcoholic Beverage Code, is amended to read as follows:

Sec. 109.32. MUNICIPAL AND COUNTY REGULATION OF MALT BEVERAGES [~~BEER~~]. (a) An incorporated city or town by charter or ordinance may:

- (1) prohibit the sale of malt beverages [~~beer~~] in a residential area; and
- (2) regulate the sale of malt beverages [~~beer~~] and prescribe the hours when malt beverages [~~it~~] may be sold, except the city or town may not permit the sale of malt beverages [~~beer~~] when the [~~its~~] sale of malt beverages is prohibited by this code.
- (b) In a county that has only one incorporated city or town that has a majority of the population of the county, according to the most recent federal census, and where the city or town has shortened the hours of sale for malt beverages [~~beer~~] on

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Sundays by a valid charter amendment or ordinance before January 1, 1957, the commissioners court may enter an order prohibiting the sale of malt beverages [~~beer~~] on Sundays during the hours the sale of malt beverages [~~it~~] is prohibited in the city or town. The order may apply to all or part of the area of the county located outside the city or town. The commissioners court may not adopt the order unless it first publishes notice for four consecutive weeks in a newspaper of general circulation in the county published in the county or a nearby county.

(c) In exercising the authority granted by this section, the city, town, or county may distinguish between retailers selling malt beverages [~~beer~~] for on-premises consumption and retailers, brewers [~~manufacturers~~], or distributors who do not sell malt beverages [~~beer~~] for on-premises consumption.

SECTION 350. Sections 109.33(f) and (g), Alcoholic Beverage Code, are amended to read as follows:

- (f) Subsections (a)(2) and (3) do not apply to the holder of:
- (1) a retail on-premises consumption permit or license if less than 50 percent of the gross receipts for the premises is from the sale or service of alcoholic beverages;
 - (2) a retail off-premises consumption permit or license if less than 50 percent of the gross receipts for the premises, excluding the sale of items subject to the motor fuels tax, is from the sale or service of alcoholic beverages; or
 - (3) a wholesaler's, distributor's, brewer's, distiller's and rectifier's, or winery [~~, wine bottler's or manufacturer's~~] permit or license, or any other license or permit held by a

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wholesaler or manufacturer as those words are ordinarily used and understood in Chapter 102.

(g) Subsection (a)(3) does not apply to the holder of:

- (1) a ~~license or~~ permit issued under Chapter ~~30~~ [27, 31, or 72] who is operating on the premises of a private school; or
- (2) a license or permit covering a premise where minors are prohibited from entering under Section 109.53 and that is located within 1,000 feet of a private school.

SECTION 351. Section 109.53, Alcoholic Beverage Code, is amended to read as follows:

Sec. 109.53. CITIZENSHIP OF PERMITTEE; CONTROL OF PREMISES; SUBTERFUGE OWNERSHIP; ETC. A ~~No~~ person who has not been a citizen of Texas for a period of one year immediately preceding the filing of the person's ~~his~~ application therefor is not ~~shall be~~ eligible to receive a permit under this code. No permit ~~[except a brewer's permit, and such other licenses and permits as are necessary to the operation of a brewer's permit,]~~ shall be issued to a corporation unless the same be incorporated under the laws of the state and unless at least 51 percent of the stock of the corporation is owned at all times by citizens who have resided within the state for a period of one year and who possess the qualifications required of other applicants for permits; provided, however, that the restrictions contained in the preceding clause shall not apply to domestic or foreign corporations that were engaged in the legal alcoholic beverage business in this state under charter or permit prior to August 24, 1935. Partnerships, firms, and associations applying for permits shall be composed wholly of citizens possessing the qualifications above enumerated. Any

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corporation (except carrier) holding a permit under this code which shall violate any provisions hereof, or any rule or regulation promulgated hereunder, shall be subject to forfeiture of its charter and it shall be the duty of the attorney general, when any such violation is called to the attorney general's ~~[his]~~ attention, to file a suit for such cancellation in a district court of Travis County. ~~The~~ ~~[Such]~~ provisions of this section ~~that~~ ~~[as]~~ require Texas citizenship or require incorporation in Texas ~~do~~ ~~[shall]~~ not apply to the holders of ~~[agent's, industrial, and]~~ carrier's permits. ~~A~~ ~~[No]~~ person ~~may not~~ ~~[shall]~~ sell, warehouse, store or solicit orders for any liquor in any wet area without first having procured a permit of the class required for such privilege, or consent to the use of or allow the person's ~~[his]~~ permit to be displayed by or used by any person other than the one to whom the permit was issued. It is the intent of the legislature to prevent subterfuge ownership of or unlawful use of a permit or the premises covered by such permit; and all provisions of this code shall be liberally construed to carry out this intent, and it shall be the duty of the commission or the administrator to provide strict adherence to the general policy of preventing subterfuge ownership and related practices hereinafter declared to constitute unlawful trade practices. ~~An~~ ~~[No]~~ applicant for a package store permit or a renewal of a package store permit may not ~~[thereof shall have authority to]~~ designate as "premise" and the commission ~~[or administrator]~~ shall not approve a lesser area than that specifically defined as "premise" in Section 11.49(a) ~~[of this code]~~. Every permittee shall have and maintain exclusive occupancy and control of the entire licensed premises in every phase of the storage, distribution, possession, and transportation and sale of all alcoholic beverages purchased,

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stored or sold on the licensed premises. Any device, scheme or plan which surrenders control of the employees, premises or business of the permittee to persons other than the permittee shall be unlawful. No minor, unless accompanied by his or her parent, guardian, adult husband or adult wife, or other adult person into whose custody he or she has been committed for the time by some court, shall knowingly be allowed on the premises of the holder of a package store permit. The prohibition against the presence of a minor on the premises of the holder of a package store permit does not apply to the presence on the premises of the holder or a person lawfully employed by the holder. Any package store permittee who shall be injured in the permittee's ~~his~~ business or property by another package store permittee by reason of anything prohibited in this section may institute suit in any district court in the county wherein the violation is alleged to have occurred to require enforcement by injunctive procedures and/or to recover threefold the damages ~~by him~~ sustained by the permittee; plus costs of suit including a reasonable attorney's fee. The provisions prohibiting the licensing of only a portion of a building as premise for a package store permit shall not apply to hotels as already defined in this code.

SECTION 352. Section 109.531, Alcoholic Beverage Code, is amended to read as follows:

Sec. 109.531. ADDITIONAL REQUIREMENTS FOR APPLICATION OR RENEWAL OF PERMIT, ~~OR~~ LICENSE, OR CERTIFICATE BY OUT-OF-STATE RESIDENTS. In addition to any other requirement for a license, ~~or~~ permit, or certificate under this code, a person

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who has not been a citizen of this state for a period of one year preceding the date the person filed an application for a permit, ~~or~~ license, or certificate under Chapter 25, 26, 28, 29, 30, 32 ~~[Chapters 25-34, 44], 48, 50~~ ~~[48-51], 69, 71~~ ~~[69-72], or [Chapter] 74~~ ~~[of this code]~~ shall:

- (1) designate an agent, who is a citizen of this state, to represent the person in matters before the commission and to be responsible for the proper conduct of any activity of the licensee or permittee; and
- (2) submit to a criminal history background check.

SECTION 353. Section 109.54(a), Alcoholic Beverage Code, is amended to read as follows:

(a) Any licensee who has purchased malt beverages ~~[beer]~~ for sale at the site of a festival or civic celebration which has been held annually for at least 15 years during a specified period not exceeding 10 days shall be authorized for 24 hours following the official close of the celebration to sell any malt beverages ~~[beer]~~ remaining at the site to any licensee or permittee authorized to purchase malt beverages ~~[beer]~~ for resale.

SECTION 354. Section 109.57(e), Alcoholic Beverage Code, is amended to read as follows:

(e) A municipality located in a county that has a population of 2.2 million or more and that is adjacent to a county with a population of more than 600,000 or a municipality located in a county with a population of 600,000 or more and that is adjacent to a county with a population of 2.2 million or more may regulate, in a manner not otherwise prohibited by law,

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SECTION 354. Same as House version.

SECTION 355. Same as House version.

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the location of an establishment issued a permit under Chapter 32 ~~[or 33]~~ if:

- (1) the establishment derives 35 percent or more of the establishment's gross revenue from the on-premises sale or service of alcoholic beverages and the premises of the establishment are located in a dry area; and
- (2) the permit is not issued to a fraternal or veterans organization or the holder of a food and beverage certificate.

SECTION 355. Sections 109.62(c) and (e), Alcoholic Beverage Code, are amended to read as follows:

(c) A holder of one of the following permits or licenses ~~[a permit or license under Chapter 41, 42, or 68]~~ may make deliveries to and pick up deliveries from the alternate location in the same manner as this code and commission rules provide for the distributor's or wholesaler's licensed or permitted premises:

- (1) a distiller's and rectifier's permit;
- (2) a winery permit;
- (3) a wholesaler's permit;
- (4) a general class B wholesaler's permit;
- (5) a carrier permit;
- (6) a brewer's license; or
- (7) a general distributor's license.

(e) The alternate location must be in an area where the sale of the applicable alcoholic beverages has been approved by a local option election or where the distributor or wholesaler had been operating under Section 251.77 or 251.78. If ~~[beer, ale, or]~~ malt beverages are ~~[liquor is]~~ handled at the alternate location, the alternate location must be in the area assigned

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to the distributor [~~or wholesaler~~] under Subchapters C and D, Chapter 102.

SECTION 356. Section 109.63(a), Alcoholic Beverage Code, is amended to read as follows:

(a) This section applies to the holder of a [~~brewer's permit,~~] distiller's and rectifier's permit, winery permit, [~~wine bottler's permit,~~] or brewer's [~~manufacturer's~~] license.

SECTION 357. Effective September 1, 2019, Section 109.64, Alcoholic Beverage Code, is amended to read as follows:

Sec. 109.64. BULK PURCHASE FOR INDUSTRIAL USE [~~BY HOLDER OF PERMIT~~]. Section 102.32 applies to the bulk purchase of liquor for purposes described by Section 38.01 [~~the holder of an industrial permit~~] from the holder of a wholesaler's permit.

SECTION 358. The heading to Subchapter A, Chapter 201, Alcoholic Beverage Code, is amended to read as follows:

SUBCHAPTER A. TAX ON LIQUOR [~~OTHER THAN ALE AND MALT LIQUOR~~]

SECTION 359. Section 201.01, Alcoholic Beverage Code, is amended to read as follows:

Sec. 201.01. LIQUOR. In this subchapter, "liquor" does not include malt beverages [~~ale or malt liquor~~].

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SECTION 357. Same as House version.

SECTION 358. Same as House version.

SECTION 359. Same as House version.

SECTION 360. Same as House version.

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SECTION 360. Section 201.17, Alcoholic Beverage Code, is amended to read as follows:

Sec. 201.17. LIQUOR IN METRIC CONTAINERS. For the purpose of the taxes imposed on liquor by this subchapter [~~and on ale and malt liquor by Subchapter B of this chapter~~], if the liquor is in metric containers the amount of tax due is determined by converting the metric amount into the equivalent amount in gallons and applying the appropriate tax rate. The commission shall prepare tables showing the amount of tax due on various types of liquor[~~, including ale and malt liquor,~~] in metric containers.

SECTION 361. Section 201.72, Alcoholic Beverage Code, is amended to read as follows:

Sec. 201.72. DUTY TO PRINT. The commission and the board of control shall have engraved or printed the liquor and malt beverage [~~beer~~] tax stamps required by this code. The board of control shall let the contracts for the stamps required by this code as provided by law. The commission shall expend funds necessary to keep an ample supply of stamps on hand.

SECTION 362. The heading to Chapter 203, Alcoholic Beverage Code, is amended to read as follows:

CHAPTER 203. MALT BEVERAGE [~~BEER~~] TAX

SECTION 363. Section 203.01, Alcoholic Beverage Code, is amended to read as follows:

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SECTION 361. Same as House version.

SECTION 362. Same as House version.

SECTION 363. Same as House version.

SECTION 364. Same as House version.

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Sec. 203.01. TAX ON MALT BEVERAGES [~~BEER~~]. A tax is imposed on the first sale of malt beverages brewed [~~beer manufactured~~] in this state or imported into this state at the rate of six dollars per barrel.

SECTION 364. Section 203.02, Alcoholic Beverage Code, is amended to read as follows:

Sec. 203.02. "FIRST SALE". In this chapter, "first sale" means:

(1) the first actual sale of malt beverages [~~beer~~]:

(A) by the holder of a distributor's license or by the holder of a brewer's [~~manufacturer's~~] license acting under the authority of Section 62A.02 [~~62.12~~], to:

(i) a permittee or licensee authorized to sell to ultimate consumers;

(ii) a local distributor permittee; or

(iii) a private club registration permittee; or

(B) by a brewpub licensee to a consumer or a permittee or licensee authorized to sell malt beverages [~~beer~~] to ultimate consumers; or

(2) the importation of malt beverages [~~beer~~] under Section 107.07.

SECTION 365. Section 203.03(a), Alcoholic Beverage Code, is amended to read as follows:

(a) The licensee making the taxable first sale shall pay the tax on malt beverages [~~beer~~] imposed under Section 203.01 [~~of this code~~].

SENATE VERSION (IE)

SECTION 365. Same as House version.

SECTION 366. Same as House version.

CONFERENCE

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SECTION 366. Section 203.04, Alcoholic Beverage Code, is amended to read as follows:

Sec. 203.04. TAX ON UNSALABLE MALT BEVERAGES [~~BEER~~]. No tax imposed under Section 203.01 [~~of this code~~] may be imposed or collected on malt beverages [~~beer~~] that for any reason have [~~has~~] been found and declared to be unsalable by the commission or administrator. A brewer [~~manufacturer~~] or distributor is entitled to a refund of any tax the brewer or distributor [~~he~~] has paid on unsalable malt beverages [~~beer~~].

SECTION 367. Sections 203.05(a) and (b), Alcoholic Beverage Code, are amended to read as follows:

(a) No tax may be collected on malt beverages [~~beer~~]:

(1) shipped out of this state for consumption outside of this state;

(2) sold aboard ships for ship's supplies; or

(3) shipped to any installation of the national military establishment under federal jurisdiction for consumption by military personnel on that installation.

(b) The commission shall provide forms on which distributors and brewers [~~manufacturers~~] may claim these exemptions from the tax on malt beverages [~~beer~~].

SECTION 368. Section 203.06, Alcoholic Beverage Code, is amended to read as follows:

Sec. 203.06. EXCESS TAX. A brewer [~~manufacturer~~] or distributor is entitled to a refund or credit on future tax payment for any excess tax on malt beverages [~~beer~~] paid through oversight, mistake, error, or miscalculation.

SENATE VERSION (IE)

SECTION 367. Same as House version.

SECTION 368. Same as House version.

SECTION 369. Same as House version.

CONFERENCE

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SENATE VERSION (IE)

CONFERENCE

SECTION 369. Section 203.07(b), Alcoholic Beverage Code, is amended to read as follows:

(b) Necessary funds from the collection of the malt beverages [beer] tax before it is allocated may be appropriated for the payment of malt beverages [beer] tax refunds.

SECTION 370. Sections 203.09(a) and (b), Alcoholic Beverage Code, are amended to read as follows:

(a) The commission may require brewers [manufacturers] of malt beverages brewed [beer manufactured] in this state or imported into this state, importers, and distributors to provide information as to purchases, sales, and shipments to enable the commission to collect the full amount of the malt beverages [beer] tax due. No brewer [manufacturer], importer, or distributor may fail or refuse to furnish the information.

(b) The commission may seize or withhold from sale the manufacturer's, importer's, or distributor's malt beverages [beer] for failure or refusal to supply the information required under Subsection (a) [of this section] or to permit the commission to make an investigation of pertinent records whether inside or outside this state.

SECTION 371. Section 203.10, Alcoholic Beverage Code, is amended to read as follows:

Sec. 203.10. PAYMENT OF TAXES; DISCOUNT. The tax on malt beverages [beer] shall be paid by a remittance

SECTION 370. Same as House version.

SECTION 371. Same as House version.

SECTION 372. Same as House version.

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payable to the comptroller and forwarded with any required sworn statements of taxes due to the commission in Austin on or before the due date. A discount of two percent of the amount due shall be withheld by the permittee or licensee for keeping records, furnishing bonds, and properly accounting for the remittance of the tax due. No discount is permitted if the tax is delinquent at the time of payment.

SECTION 372. Section 203.11, Alcoholic Beverage Code, is amended to read as follows:

Sec. 203.11. EVIDENCE IN SUIT. In a suit brought to enforce the collection of tax due on malt beverages brewed [~~beer manufactured~~] in or imported into this state, a certificate by the commission or administrator showing the delinquency is prima facie evidence of:

- (1) the levy of the tax or the delinquency of the stated amount of tax and penalty; and
- (2) compliance by the commission with the provisions of this code in relation to the computation and levy of the tax.

SECTION 373. Section 203.12, Alcoholic Beverage Code, is amended to read as follows:

Sec. 203.12. TAX LIABILITY. A person possessing malt beverages [~~beer~~] on which the tax is delinquent is liable for the delinquent taxes in addition to the criminal penalties.

SECTION 374. Sections 204.01(a), (b), (f), and (i), Alcoholic Beverage Code, are amended to read as follows:

SENATE VERSION (IE)

SECTION 373. Same as House version.

SECTION 374. Same as House version.

SECTION 375. Same as House version.

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(a) Except as otherwise provided in this section, the following licensees and permittees shall furnish a bond:

(1) those authorized to import alcoholic beverages into the state;

(2) brewers [~~manufacturers~~] of malt beverages [~~beer and brewers of ale or malt liquor~~] in the state; and

(3) all other permittees.

(b) A [~~No~~] bond is not required of a holder of a mixed beverage, private club registration, carrier [~~carriers~~], local cartage, wine and malt beverage retailer's [~~beer retailers~~], or nonresident seller's [~~manufacturer's agent's, or agent's~~] permit.

(f) The holder of a wholesaler's or class B wholesaler's permit, the holder of a winery [~~or wine bottler's~~] permit, or the holder of a distributor's license is not required to furnish a bond if for the preceding 36 months the permittee or licensee has paid all taxes and fees required by this code on or before the due date.

(i) A permittee or licensee who qualifies for an exemption under Subsection (f) [~~of this section~~] is also exempt from the bonding requirement for any other wholesaler's permit, class B wholesaler's permit, winery permit, [~~wine bottler's permit,~~] or distributor's license currently held by or subsequently issued to the same permittee or licensee for use at licensed premises different from and additional to those covered by the permit or license under which the permittee or licensee qualified for exemption. However, if a permittee or licensee fails to pay a tax or fee imposed by this code on or before the due date and the permittee or licensee holds multiple permits or licenses, the requirement for a bond or tax security shall be imposed or reimposed under Subsection (g) [~~of this section~~] only on the permit or license covering the licensed

SENATE VERSION (IE)

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premises for which the tax or fee and any applicable penalty were not timely paid.

SECTION 375. Section 204.03(d), Alcoholic Beverage Code, is amended to read as follows:

(d) Bonds, letters of credit, or certificates of deposit to insure the payment of the tax on distilled spirits imposed by Section 201.03 [~~of this code~~], the tax on vinous liquor imposed by Section 201.04 [~~of this code~~], [~~the tax on ale and malt liquor imposed by Section 201.42 of this code,~~] or the tax on malt beverages [~~beer~~] imposed by Section 203.01 [~~of this code~~], shall be set at an amount that will protect the state against the anticipated tax liability of the principal for any six-week period.

SECTION 376. Sections 251.725(a) and (b), Alcoholic Beverage Code, are amended to read as follows:

(a) This section applies only to a municipality whose local option status allows for the legal sale of malt beverages [~~beer~~] and wine for off-premise consumption only as a result of a local option election on the applicable ballot issue held on or after January 1, 1985.

(b) The governing body of a municipality described by Subsection (a) may adopt an ordinance authorizing the sale of malt beverages [~~beer~~] and wine for off-premise consumption in an area annexed by the municipality after that election if at the time the ordinance is adopted:

(1) the annexed area is not more than one percent of the total area covered by the municipality;

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SECTION 376. Same as House version.

SECTION 377. Same as House version.

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- (2) all of the land in the annexed area is zoned for commercial use only; and
- (3) the annexed area is not adjacent to residential, church, or school property.

SECTION 377. Section 251.75, Alcoholic Beverage Code, is amended to read as follows:

Sec. 251.75. CONTINUANCE OF OPERATION AS ~~[MANUFACTURER OR]~~ BREWER. Notwithstanding any other provision of this code, if the sale of malt beverages ~~[beer or ale]~~ is prohibited in an area by a local option election, a holder of a brewer's ~~[manufacturer's]~~ license ~~[or brewer's permit]~~ that was issued prior to the election may not be denied an original or renewal brewer's ~~[manufacturer's]~~ license ~~[or brewer's permit]~~ for the same location on the ground that the local option status of the area prohibits the sale of malt beverages ~~[beer or ale]~~. Except for the right to sell malt beverages ~~[beer or ale]~~ contrary to the local option status of the area, the licensee ~~[or permittee]~~ may engage in all activities authorized by the license ~~[or permit]~~, including the ~~[manufacturing,]~~ brewing, possessing, storing, and packaging of malt beverages ~~[beer or ale]~~, and transporting the malt beverages ~~[it]~~ to an area where the ~~[its]~~ sale of malt beverages is legal. The licensee ~~[or permittee]~~ may deliver malt beverages ~~[beer or ale]~~ at the licensee's ~~[his licensed]~~ premises to a purchaser from outside the state, an authorized carrier, or distributor~~[-or class B wholesaler]~~. The purchaser, carrier, or distributor~~[-or class B wholesaler]~~ may not receive the malt beverages ~~[beer or ale]~~ for transportation unless there has first been an order, acceptance, and payment

SENATE VERSION (IE)

SECTION 378. Same as House version.

CONFERENCE

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or legal satisfaction of payment in an area where the sale of malt beverages [~~beer or ale~~] is legal.

SECTION 378. Section 251.77, Alcoholic Beverage Code, is amended to read as follows:

Sec. 251.77. CONTINUANCE OF OPERATION AS DISTRIBUTOR. (a) Notwithstanding any other provision of this code, if the sale of malt beverages [~~beer~~] is prohibited by local option election, a licensed distributor of malt beverages [~~beer~~] whose warehouse or other facilities used in connection with the distributorship are located in the area affected, has the right to continue to operate as a distributor in that area and maintain the necessary premises and facilities for distribution. The distributor continues to enjoy all the rights and privileges incident to distributorship, including the right to possess, store, warehouse, and sell malt beverages [~~beer~~] in that area, and deliver malt beverages [~~beer~~] into and out of that area.

(b) A distributor in the area affected may sell or deliver malt beverages [~~beer~~] only to licensed outlets located where the sale of malt beverages [~~beer~~] is legal.

SECTION 379. Effective September 1, 2019, Section 251.79, Alcoholic Beverage Code, is amended to read as follows:

Sec. 251.79. AREAS IN WHICH CERTAIN PERMITS AND LICENSES MAY BE ISSUED. Notwithstanding any other provision of this code, a wholesaler's permit, general class B wholesaler's permit, [~~local class B wholesaler's permit,~~] or general[~~, local~~] or branch distributor's license

SENATE VERSION (IE)

SECTION 379. Same as House version.

SECTION 380. Same as House version.

CONFERENCE

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may be issued and licensed premises maintained in any area where the sale of any alcoholic beverage is legal. A person issued a permit or license under this section may exercise all rights and privileges of other permittees and licensees of the same class.

SECTION 380. Subchapter D, Chapter 251, Alcoholic Beverage Code, is amended by adding Section 251.811 to read as follows:

Sec. 251.811. SALE OF MALT BEVERAGES. (a) If before September 1, 2021, the sale of beer was approved in an area by a local option election that approved the sale of beer only, an alcoholic beverage license or permit holder may not sell in that area malt beverages containing more than five percent alcohol by volume unless a subsequent local option election approves the sale of malt beverages or malt beverages and other alcoholic beverages.

(b) The commission shall, on the face of each retail license, indicate whether the holder may only sell malt beverages that do not exceed five percent alcohol by volume.

SECTION 381. Article 18.17(a), Code of Criminal Procedure, is amended to read as follows:

(a) All unclaimed or abandoned personal property of every kind, other than contraband subject to forfeiture under Chapter 59 [~~of this code~~] and whiskey, wine and malt beverages [~~beer~~], seized by any peace officer in the State of Texas which is not held as evidence to be used in any pending case and has not been ordered destroyed or returned to the person entitled to possession of the same by a

SENATE VERSION (IE)

SECTION 381. Same as House version.

SECTION 382. Same as House version.

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magistrate, which shall remain unclaimed for a period of 30 days shall be delivered for disposition to a person designated by the municipality or the purchasing agent of the county in which the property was seized. If a peace officer of a municipality seizes the property, the peace officer shall deliver the property to a person designated by the municipality. If any other peace officer seizes the property, the peace officer shall deliver the property to the purchasing agent of the county. If the county has no purchasing agent, then such property shall be disposed of by the sheriff of the county.

SECTION 382. Section 501.001(1), Election Code, is amended to read as follows:

(1) "Alcoholic beverage," [~~"beer,"~~] "commission," "liquor," "malt beverage," "mixed beverage," and "wine and vinous liquor" have the meanings assigned by Section 1.04, Alcoholic Beverage Code.

SECTION 383. Sections 501.035(a), (b), and (c), Election Code, are amended to read as follows:

(a) In the ballot issues prescribed by this section, "wine" is limited to vinous beverages that do not contain more than 17 percent alcohol by volume and "malt beverages" are limited to [~~includes~~] malt beverages that do not contain more than 17 percent [~~exceed that~~] alcohol by volume [~~content~~]. For local option purposes, those beverages, sold and dispensed to the public in unbroken, sealed, individual containers, are a separate and distinct type of alcoholic beverage.

SENATE VERSION (IE)

SECTION 383. Same as House version.

SECTION 384. Same as House version.

CONFERENCE

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(b) In an area where any type or classification of alcoholic beverages is prohibited and the issue submitted pertains to legalization of the sale of one or more of the prohibited types or classifications, the ballot shall be prepared to permit voting for or against the one of the following issues that applies:

- (1) "The legal sale of malt beverages [~~beer~~] for off-premise consumption only."
- (2) "The legal sale of malt beverages [~~beer~~]."
- (3) "The legal sale of malt beverages [~~beer~~] and wine for off-premise consumption only."
- (4) "The legal sale of malt beverages [~~beer~~] and wine."
- (5) "The legal sale of all alcoholic beverages for off-premise consumption only."
- (6) "The legal sale of all alcoholic beverages except mixed beverages."
- (7) "The legal sale of all alcoholic beverages including mixed beverages."
- (8) "The legal sale of mixed beverages."
- (9) "The legal sale of mixed beverages in restaurants by food and beverage certificate holders only."
- (10) "The legal sale of wine on the premises of a holder of a winery permit."

(c) In an area where the sale of any type or classification of alcoholic beverages has been legalized, the ballot for a prohibitory election shall be prepared to permit voting for or against the one of the following issues that applies:

- (1) "The legal sale of malt beverages [~~beer~~] for off-premise consumption only."
- (2) "The legal sale of malt beverages [~~beer~~]."
- (3) "The legal sale of malt beverages [~~beer~~] and wine for off-premise consumption only."

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- (4) "The legal sale of malt beverages [~~beer~~] and wine."
- (5) "The legal sale of all alcoholic beverages for off-premise consumption only."
- (6) "The legal sale of all alcoholic beverages except mixed beverages."
- (7) "The legal sale of all alcoholic beverages including mixed beverages."
- (8) "The legal sale of mixed beverages."
- (9) "The legal sale of mixed beverages in restaurants by food and beverage certificate holders only."
- (10) "The legal sale of wine on the premises of a holder of a winery permit."

SECTION 384. Section 437.110(a), Government Code, is amended to read as follows:

(a) The department may establish and contract for the operation of not more than three military-type post exchanges similar to those operated by the armed forces of the United States on any real property under the management and control of the department. A post exchange may sell, lease, or rent goods and services, including firearms, tobacco products, prepared foods, and malt beverages [~~beer~~] and wine but not distilled spirits. The department may designate facilities located on state property to use for purposes of this section.

SECTION 385. Section 466.155(a), Government Code, is amended to read as follows:

(a) After a hearing, the director shall deny an application for a license or the commission shall suspend or revoke a license

SENATE VERSION (IE)

SECTION 385. Same as House version.

SECTION 386. Same as House version.

CONFERENCE

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if the director or commission, as applicable, finds that the applicant or sales agent:

(1) is an individual who:

(A) has been convicted of a felony, criminal fraud, gambling or a gambling-related offense, or a misdemeanor involving moral turpitude, if less than 10 years has elapsed since the termination of the sentence, parole, mandatory supervision, or probation served for the offense;

(B) is or has been a professional gambler;

(C) is married to an individual:

(i) described in Paragraph (A) or (B); or

(ii) who is currently delinquent in the payment of any state tax;

(D) is an officer or employee of the commission or a lottery operator; or

(E) is a spouse, child, brother, sister, or parent residing as a member of the same household in the principal place of residence of a person described by Paragraph (D);

(2) is not an individual, and an individual described in Subdivision (1):

(A) is an officer or director of the applicant or sales agent;

(B) holds more than 10 percent of the stock in the applicant or sales agent;

(C) holds an equitable interest greater than 10 percent in the applicant or sales agent;

(D) is a creditor of the applicant or sales agent who holds more than 10 percent of the applicant's or sales agent's outstanding debt;

(E) is the owner or lessee of a business that the applicant or sales agent conducts or through which the applicant will conduct a ticket sales agency;

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- (F) shares or will share in the profits, other than stock dividends, of the applicant or sales agent; or
- (G) participates in managing the affairs of the applicant or sales agent;
- (3) has been finally determined to be:
 - (A) delinquent in the payment of a tax or other money collected by the comptroller, the Texas Workforce Commission, or the Texas Alcoholic Beverage Commission;
 - (B) in default on a loan made under Chapter 52, Education Code; or
 - (C) in default on a loan guaranteed under Chapter 57, Education Code;
- (4) is a person whose location for the sales agency is:
 - (A) a location licensed for games of bingo under Chapter 2001, Occupations Code;
 - (B) on land that is owned by:
 - (i) this state; or
 - (ii) a political subdivision of this state and on which is located a public primary or secondary school, an institution of higher education, or an agency of the state; or
 - (C) a location for which a person holds a wine and malt beverage [~~beer~~] retailer's permit, mixed beverage permit, mixed beverage permit with a retailer late hours certificate [~~permit~~], private club registration permit, or private club registration permit with a retailer late hours certificate [~~permit~~] issued under Chapter 25, 28, 29, or 32, [~~or 33~~], Alcoholic Beverage Code, other than a location for which a person holds a wine and malt beverage [~~beer~~] retailer's permit issued under Chapter 25, Alcoholic Beverage Code, that derives less than 30 percent of the location's gross receipts from the sale or service of alcoholic beverages; or

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(5) has violated this chapter or a rule adopted under this chapter.

SECTION 386. Effective September 1, 2019, Section 431.2211(c), Health and Safety Code, is amended to read as follows:

(c) This subchapter does not apply to the distribution of beverages in sealed containers by holders of licenses or permits issued under Chapter 19, 20, ~~[21,]~~ 23, or 64, ~~[or 65,]~~ Alcoholic Beverage Code. The provisions of the Alcoholic Beverage Code prevail to the extent of any conflict with this chapter.

SECTION 387. Same as House version.

SECTION 387. Section 438.013(c), Health and Safety Code, is amended to read as follows:

(c) In this section, "liquor dispensary" means a place where malt beverages ~~[beer, ale]~~, wine, or any other alcoholic beverage is stored, prepared, labeled, bottled, served, or handled.

SECTION 388. Same as House version.

SECTION 388. Sections 1956.001(1) and (10), Occupations Code, are amended to read as follows:

(1) "Aluminum material" means a product made from aluminum, an aluminum alloy, or an aluminum by-product. The term includes aluminum wiring and an aluminum malt beverage ~~[beer]~~ keg but does not include another type of aluminum can used to contain a food or beverage.

(10) "Regulated metal" means:

(A) manhole covers;

SECTION 389. Same as House version.

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- (B) guardrails;
- (C) metal cylinders designed to contain compressed air, oxygen, gases, or liquids;
- (D) malt beverage [~~beer~~] kegs made from metal other than aluminum;
- (E) historical markers or cemetery vases, receptacles, or memorials made from metal other than aluminum;
- (F) unused rebar;
- (G) street signs;
- (H) drain gates;
- (I) safes;
- (J) communication, transmission, and service wire or cable;
- (K) condensing or evaporator coils for central heating or air conditioning units;
- (L) utility structures, including the fixtures and hardware;
- (M) aluminum or stainless steel containers designed to hold propane for fueling forklifts;
- (N) metal railroad equipment, including tie plates, signal houses, control boxes, signs, signals, traffic devices, traffic control devices, traffic control signals, switch plates, e-clips, and rail tie functions;
- (O) catalytic converters not attached to a vehicle;
- (P) fire hydrants;
- (Q) metal bleachers or other seating facilities used in recreational areas or sporting arenas;
- (R) any metal item clearly and conspicuously marked with any form of the name, initials, or logo of a governmental entity, utility, cemetery, or railroad;
- (S) insulated utility, communications, or electrical wire that has been burned in whole or in part to remove the insulation;
- (T) backflow valves;

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(U) metal in the form of commonly recognized products of the industrial metals recycling process, including bales, briquettes, billets, sows, ingots, pucks, and chopped or shredded metals; and

(V) commercial grade lead batteries or lead-acid batteries.

SECTION 389. Effective September 1, 2019, Section 2401.002, Occupations Code, is amended to read as follows: Sec. 2401.002. APPLICATION OF CHAPTER. This chapter does not apply to a person who:

(1) acts as a customs broker as defined by 19 U.S.C. Section 1641;

(2) operates trucks and delivery vehicles in the wholesale distribution of alcoholic beverages under Chapter 19, 20, or [21,] 64, [~~or 65,~~] Alcoholic Beverage Code; or

(3) acts as an ocean freight forwarder as defined by 46 U.S.C. Section 1702.

SECTION 390. Effective September 1, 2019, Section 111.006(h), Tax Code, is amended to read as follows:

(h) The comptroller shall disclose information to a person regarding net sales by quantity, brand, and size that is submitted in a report required under Section 151.462 if:

(1) the person requesting the information holds a permit or license under Chapter 19, 20, [21,] 37, 64, [65,] or 66, Alcoholic Beverage Code; and

(2) the request relates only to information regarding the sale of a product distributed by the person making the request.

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SECTION 390. Same as House version.

SECTION 391. Same as House version.

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SECTION 391. Section 151.054(d), Tax Code, is amended to read as follows:

(d) A sale of liquor, wine, ~~[beer,]~~ or malt beverages ~~[liquor]~~ by the holder of a brewer's ~~[manufacturer's]~~ license, wholesaler's permit, general class B wholesaler's permit, ~~[local class B wholesaler's permit,]~~ local distributor's permit, or a general~~[, local,]~~ or branch distributor's license issued under the Alcoholic Beverage Code to the holder of a retail license or permit issued under the Alcoholic Beverage Code is presumed to be a sale for resale. In a sale to which this section applies, the seller is not required to receive a resale certificate from the purchaser.

SECTION 392. Sections 151.461(1), (2), (5), and (6), Tax Code, are amended to read as follows:

(1) "Brewer" means a person required to hold a brewer's license ~~[permit]~~ under Chapter 62 ~~[42]~~, Alcoholic Beverage Code.

(2) "Distributor" means a person required to hold:

(A) a general distributor's license under Chapter 64, Alcoholic Beverage Code; or

~~(B) [a local distributor's license under Chapter 65, Alcoholic Beverage Code; or~~

~~[(C)]~~ a branch distributor's license under Chapter 66, Alcoholic Beverage Code.

(5) "Retailer" means a person required to hold:

(A) a wine and malt beverage ~~[beer]~~ retailer's permit under Chapter 25, Alcoholic Beverage Code;

(B) a wine and malt beverage ~~[beer]~~ retailer's off-premise permit under Chapter 26, Alcoholic Beverage Code;

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SECTION 392. Same as House version.

SECTION 393. Same as House version.

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(C) a nonprofit entity temporary event [~~wine and beer retailer's permit [or special three-day wine and beer permit]~~] under Chapter 30 [~~27~~], Alcoholic Beverage Code;

(D) a mixed beverage permit under Chapter 28, Alcoholic Beverage Code;

(E) [~~a daily temporary mixed beverage permit under Chapter 30, Alcoholic Beverage Code;~~

~~(F)~~ a private club registration permit under Chapter 32, Alcoholic Beverage Code;

~~(F)~~ [~~(G)~~] a certificate issued to a fraternal or veterans organization under Section 32.11, Alcoholic Beverage Code;

~~(G)~~ [~~(H)~~] a ~~daily temporary private club permit under Subchapter B, Chapter 33, Alcoholic Beverage Code;~~

~~(I)~~ a ~~temporary auction permit under Chapter 53, Alcoholic Beverage Code;~~

~~(J)~~ a retail dealer's on-premise license under Chapter 69, Alcoholic Beverage Code;

~~(K)~~ a ~~temporary license under Chapter 72, Alcoholic Beverage Code;~~] or

~~(H)~~ [~~(L)~~] a retail dealer's off-premise license under Chapter 71, Alcoholic Beverage Code, except for a dealer who also holds a package store permit under Chapter 22, Alcoholic Beverage Code.

(6) "Wholesaler" means a person required to hold:

(A) a winery permit under Chapter 16, Alcoholic Beverage Code;

(B) a wholesaler's permit under Chapter 19, Alcoholic Beverage Code; or

(C) a general Class B wholesaler's permit under Chapter 20, Alcoholic Beverage Code[; ~~or~~

~~(D)~~ a ~~local Class B wholesaler's permit under Chapter 21, Alcoholic Beverage Code~~].

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SECTION 393. Section 151.462, Tax Code, is amended to read as follows:

Sec. 151.462. **REPORTS BY BREWERS, [MANUFACTURERS,] WHOLESALERS, AND DISTRIBUTORS.** (a) The comptroller shall require each brewer, [manufacturer,] wholesaler, distributor, or package store local distributor to file with the comptroller a report each month of alcoholic beverage sales to retailers in this state.

(b) Each brewer, [manufacturer,] wholesaler, distributor, or package store local distributor shall file a separate report for each permit or license held on or before the 25th day of each month. The report must contain the following information for the preceding calendar month's sales in relation to each retailer:

(1) the brewer's, [manufacturer's,] wholesaler's, distributor's, or package store local distributor's name, address, taxpayer number and outlet number assigned by the comptroller, and alphanumeric permit or license number issued by the Texas Alcoholic Beverage Commission;

(2) the retailer's:

(A) name and address, including street name and number, city, and zip code;

(B) taxpayer number assigned by the comptroller; and

(C) alphanumeric permit or license number issued by the Texas Alcoholic Beverage Commission for each separate retail location or outlet to which the brewer, [manufacturer,] wholesaler, distributor, or package store local distributor sold the alcoholic beverages that are listed on the report; and

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(3) the monthly net sales made by the brewer, ~~manufacturer,~~ wholesaler, distributor, or package store local distributor to the retailer for each outlet or location covered by a separate retail permit or license issued by the Texas Alcoholic Beverage Commission, including separate line items for:

- (A) the number of units of alcoholic beverages;
- (B) the individual container size and pack of each unit;
- (C) the brand name;
- (D) the type of beverage, such as distilled spirits, wine, or malt beverage;
- (E) the universal product code of the alcoholic beverage; and
- (F) the net selling price of the alcoholic beverage.

(c) Except as provided by this subsection, the brewer, ~~manufacturer,~~ wholesaler, distributor, or package store local distributor shall file the report with the comptroller electronically. The comptroller may establish procedures to temporarily postpone the electronic reporting requirement for a brewer, ~~manufacturer,~~ wholesaler, distributor, or package store local distributor who demonstrates to the comptroller an inability to comply because undue hardship would result if it were required to file the return electronically. If the comptroller determines that another technological method of filing the report is more efficient than electronic filing, the comptroller may establish procedures requiring its use by brewers, ~~manufacturers,~~ wholesalers, distributors, and package store local distributors.

SECTION 394. Section 151.466, Tax Code, is amended to read as follows:

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SECTION 395. Same as House version.

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Sec. 151.466. APPLICABILITY TO CERTAIN BREWERS ~~[MANUFACTURERS]~~. This subchapter applies only to a brewer ~~[manufacturer]~~ licensed under Chapter 62A, Alcoholic Beverage Code.

SECTION 395. Section 151.468(b), Tax Code, is amended to read as follows:

(b) In addition to the penalties imposed under Subsection (a), a brewer, ~~[manufacturer,~~ wholesaler, distributor, or package store local distributor shall pay the state a civil penalty of not less than \$25 or more than \$2,000 for each day a violation continues if the brewer, ~~[manufacturer,~~ wholesaler, distributor, or package store local distributor:

- (1) violates this subchapter; or
- (2) violates a rule adopted to administer or enforce this subchapter.

SECTION 396. Section 151.470, Tax Code, is amended to read as follows:

Sec. 151.470. AUDIT; INSPECTION. The comptroller may audit, inspect, or otherwise verify a brewer's, ~~[manufacturer's,~~ wholesaler's, distributor's, or package store local distributor's compliance with this subchapter.

SECTION 397. Section 183.001(b)(1), Tax Code, is amended to read as follows:

- (1) "Permittee" means a mixed beverage permittee, a private club registration permittee, a private club exemption certificate permittee, a private club registration permittee

SENATE VERSION (IE)

SECTION 396. Same as House version.

SECTION 397. Same as House version.

SECTION 398. Same as House version.

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with a retailer late hours certificate [~~permittee~~], a nonprofit entity [~~daily~~] temporary event [~~private club~~] permittee, a private club registration permittee holding a food and beverage certificate, [~~a daily temporary mixed beverage permittee,~~] a mixed beverage permittee with a retailer late hours certificate [~~permittee~~], a mixed beverage permittee holding a food and beverage certificate, [~~a caterer permittee,~~] or a distiller's and rectifier's permittee.

SECTION 398. Section 522.003(1), Transportation Code, is amended to read as follows:

(1) "Alcohol" means:

(A) malt beverages [~~beer, ale, port, stout, sake,~~] or any other similar fermented beverages or products containing one-half of one percent or more of alcohol by volume, brewed or produced wholly or in part from malt or a malt substitute;

(B) wine, including sake, containing one-half of one percent or more of alcohol by volume; or

(C) distilled spirits, including ethyl alcohol, ethanol, and spirits of wine in any form, and all dilutions and mixtures of distilled spirits from whatever source or by whatever process produced.

SECTION 399. Section 643.002, Transportation Code, is amended to read as follows:

Sec. 643.002. EXEMPTIONS. This chapter does not apply to:

(1) motor carrier operations exempt from registration by the Unified Carrier Registration Act of 2005 (49 U.S.C. Section 14504a) or a motor vehicle registered under the single state

SENATE VERSION (IE)

SECTION 399. Same as House version.

SECTION 400. Same as House version.

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registration system established under 49 U.S.C. Section 14504(c) when operating exclusively in interstate or international commerce;

(2) a motor vehicle registered as a cotton vehicle under Section 504.505;

(3) a motor vehicle the department by rule exempts because the vehicle is subject to comparable registration and a comparable safety program administered by another governmental entity;

(4) a motor vehicle used to transport passengers operated by an entity whose primary function is not the transportation of passengers, such as a vehicle operated by a hotel, day-care center, public or private school, nursing home, or similar organization;

(5) a vehicle operating under:

(A) Section 14.07 [a private carrier permit issued under Chapter 42], Alcoholic Beverage Code;

(B) Section 16.10, Alcoholic Beverage Code;

(C) Section 19.06, Alcoholic Beverage Code; or

(D) Section 20.04, Alcoholic Beverage Code;

(6) a vehicle operated by a governmental entity; or

(7) a tow truck, as defined by Section 2308.002, Occupations Code.

SECTION 400. (a) The Texas Sunset Commission staff, with assistance from the Texas Legislative Council and the Texas Alcoholic Beverage Commission, shall review the Texas Alcoholic Beverage Code and make recommendations to the Texas Sunset Commission for both a modernization and a nonsubstantive technical revision of the code, including:

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SECTION 401. (a) The Texas Sunset Commission staff, with assistance from the Texas Legislative Council and the Texas Alcoholic Beverage Commission, shall review the Texas Alcoholic Beverage Code and make recommendations to the Texas Sunset Commission for both a modernization and a nonsubstantive technical revision of the code, including: [Deleted by FA8]

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- (1) identifying inconsistencies in authorities and treatment of different alcoholic beverages and regulated businesses;
- (2) reviewing the use of the terms "license" for beer and "permit" for all other alcoholic beverages;
- (3) identifying any needed technical changes, including:
 - (A) removing unconstitutional provisions and outdated language;
 - (B) updating the code's structure to comply with modern drafting standards; and
 - (C) correcting legal citations; and
- (4) identifying changes needed to modernize the code within the three-tier system.
 - (b) The Texas Sunset Commission staff and the Texas Legislative Council may not consider changes to the overall three-tier regulatory system.
 - (c) Not later than September 1, 2022, the Texas Legislative Council shall prepare a nonsubstantive revision of the Texas Alcoholic Beverage Code to implement any nonsubstantive recommendations made under Subsection (a) of this section.
 - (d) Not later than September 1, 2022, the Texas Sunset Commission staff shall make substantive recommendations to the Texas Sunset Commission to address any recommended changes to modernize the Texas Alcoholic Beverage Code that the Texas Legislative Council determines cannot be included in a nonsubstantive code revision.
 - (e) This section takes effect September 1, 2019.

SECTION 401. (a) Not later than December 1, 2019, the governor shall appoint two additional members to the Texas Alcoholic Beverage Commission. At the first meeting of the

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SECTION 402. (a) Not later than December 1, 2019, the governor shall appoint two additional members to the Texas Alcoholic Beverage Commission. At the first meeting of the

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Texas Alcoholic Beverage Commission after the additional members are appointed under this subsection, or as soon as practicable after that meeting, the two new members of the commission shall draw lots to determine which member will serve a term expiring November 15, 2023, and which member will serve a term expiring November 15, 2025.

(b) This section takes effect September 1, 2019.

SECTION 402. (a) Except as provided by Subsection (b) of this section, Section 5.022, Alcoholic Beverage Code, as amended by this Act, applies to a member of the Texas Alcoholic Beverage Commission appointed before, on, or after the effective date of this Act.

(b) A member of the Texas Alcoholic Beverage Commission who, before September 1, 2019, completed the training program required by Section 5.022, Alcoholic Beverage Code, as that law existed before September 1, 2019, is required to complete additional training only on subjects added by this Act to the training program as required by Section 5.022, Alcoholic Beverage Code, as amended by this Act. A commission member described by this subsection may not vote, deliberate, or be counted as a member in

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Texas Alcoholic Beverage Commission after the additional members are appointed under this subsection, or as soon as practicable after that meeting, the two new members of the commission shall draw lots to determine which member will serve a term expiring November 15, 2023, and which member will serve a term expiring November 15, 2025.

(b) In determining the number of members of the Texas Alcoholic Beverage Commission that constitutes a quorum of the commission, each new membership position created by the amendment by this Act of Section 5.02(a), Alcoholic Beverage Code, does not count in that determination until the governor has initially appointed a person to fill the position and the person qualifies for office. This subsection expires December 1, 2019. [FA1]

(c) This section takes effect September 1, 2019.

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attendance at a meeting of the commission held on or after December 1, 2019, until the member completes the additional training.

(c) This section takes effect September 1, 2019.

SECTION 403. (a) Not later than January 31, 2020, the Texas Alcoholic Beverage Commission shall adopt rules to implement the changes in law made by this Act to Section 5.361, Alcoholic Beverage Code, relating to developing a plan for inspecting alcoholic beverage licensees and permittees. The Texas Alcoholic Beverage Commission shall with the assistance of the Legislative Budget Board develop target goals for the percentage of licensed and permitted facilities the commission inspects each year.

(b) Not later than December 31, 2020, the Texas Alcoholic Beverage Commission shall adopt rules to implement Sections 11.43, 11.431, 11.432, 61.31, 61.313, and 61.314, Alcoholic Beverage Code, as amended or added by this Act, relating to the permit and license application and protest process.

(c) Not later than December 31, 2020, the Texas Alcoholic Beverage Commission shall adopt rules to implement the changes in law made by this Act to Sections 101.67 and 101.671, Alcoholic Beverage Code, relating to the registration of alcoholic beverages.

(d) Not later than December 31, 2019, the Texas Alcoholic Beverage Commission shall adopt the rules required by Section 108.52, Alcoholic Beverage Code, as amended by this Act, relating to outdoor advertising.

(e) This section takes effect September 1, 2019.

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SECTION 404. Same as House version.

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SECTION 404. (a) The Texas Alcoholic Beverage Commission shall adopt rules setting a fee for each original or renewal certificate, permit, and license as authorized by Section 5.50, Alcoholic Beverage Code, as amended by this Act, not later than September 1, 2021. The certificate, permit, and license fees established by commission rule apply only to an original or renewal certificate, permit, or license issued on or after September 1, 2021. This subsection takes effect September 1, 2019.

(b) Effective September 1, 2021, the following provisions of the Alcoholic Beverage Code establishing the amount of a fee are repealed:

- (1) Section 14.02;
- (2) Section 16.02;
- (3) Section 19.02;
- (4) Section 20.02;
- (5) Section 22.02;
- (6) Section 23.02;
- (7) Section 24.02;
- (8) Section 25.02;
- (9) Section 26.02;
- (10) Section 28.02;
- (11) Section 32.02;
- (12) Section 37.02;
- (13) Section 38.04;
- (14) Section 41.02;
- (15) Section 43.02;
- (16) Section 46.02;
- (17) Section 50.002;
- (18) Section 51.05;
- (19) Section 54.04;
- (20) Section 55.02;

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SECTION 405. Same as House version.

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- (21) Section 56.03;
- (22) Section 62.02;
- (23) Section 62A.03;
- (24) Section 63.02;
- (25) Section 64.02;
- (26) Section 66.02;
- (27) Section 69.02;
- (28) Section 69.03;
- (29) Section 71.02; and
- (30) Section 74.02.

SECTION 405. (a) Effective September 1, 2021, the following provisions of the Alcoholic Beverage Code are repealed:

- (1) Chapters 12, 12A, 13, 17, 27, 31, 33, 34, 42, 44, 45, 48A, 52, 53, 67, 68, 70, and 72;
- (2) Subchapter B, Chapter 201;
- (3) Section 1.04(12);
- (4) Section 19.05;
- (5) Section 20.03;
- (6) Section 22.06(b);
- (7) Section 22.07;
- (8) Section 24.05(b);
- (9) Section 24.06;
- (10) Section 25.03;
- (11) Section 28.13;
- (12) Section 37.04;
- (13) Section 43.07;
- (14) Section 51.01;
- (15) Section 62.06;
- (16) Section 71.03; and

SECTION 406. Same as House version.

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CONFERENCE

(17) Section 107.07(d).

(b) Effective September 1, 2021, Section 151.461(3), Tax Code, is repealed.

SECTION 406. (a) Effective December 31, 2020, the following provisions of the Alcoholic Beverage Code relating to the permit and license application and protest process are repealed:

- (1) Section 5.435;
- (2) Section 5.46;
- (3) Section 11.41;
- (4) Section 25.051;
- (5) Section 25.052;
- (6) Section 26.06;
- (7) Section 26.07;
- (8) Section 61.311;
- (9) Section 61.312;
- (10) Section 61.32;
- (11) Section 61.33;
- (12) Sections 61.34(a) and (b);
- (13) Section 61.39;
- (14) Section 61.47; and
- (15) Section 69.05.

(b) Effective December 31, 2020, the following provisions of the Government Code are repealed:

- (1) Section 101.121; and
- (2) Section 411.120.

SECTION 407. (a) The changes in law made by this Act do not affect the validity of a disciplinary action or other

SECTION 407. Same as House version.

SECTION 408. Same as House version.

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proceeding that was initiated before the effective date of this Act and that is pending on the effective date of this Act. A disciplinary action that is pending on the effective date of this Act is governed by the law in effect on the date the action was taken, and the former law is continued in effect for that purpose.

(b) The repeal of a law by this Act does not entitle a person to a refund of a certificate, permit, or license fee paid by the person before the effective date of this Act.

SECTION 408. On September 1, 2021, the Texas Alcoholic Beverage Commission shall convert any existing permits issued under Chapter 12, 12A, or 13, Alcoholic Beverage Code, to the corresponding license under Chapter 62, 62A, or 63, Alcoholic Beverage Code. The new license shall have the same expiration date as the permit it is replacing.

SECTION 409. The holder of a permit who immediately before the effective date of this Act was authorized under the permit to purchase, sell, transport, or store ale and malt liquor, may, after the effective date of the provisions of this Act changing references to "beer," "ale," and "malt liquor" in the Alcoholic Beverage Code to "malt beverages," continue to purchase, sell, transport, or store ale and malt liquor under that permit until the date the permit expires.

SECTION 410. (a) Effective September 1, 2019, notwithstanding the repeal by this section of Chapters 18 and 21, Alcoholic Beverage Code, a person holding a permit

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SECTION 409. Same as House version.

SECTION 410. Same as House version.

SECTION 411. Same as House version.

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issued under Chapter 18 or 21, Alcoholic Beverage Code, on August 31, 2019, may continue to operate under that permit until the date the permit expires and Chapters 18 and 21, Alcoholic Beverage Code, remain in effect for those purposes.

(b) Effective September 1, 2019, the following provisions of the Alcoholic Beverage Code are repealed:

- (1) Chapters 18, 21, 47, 49, 65, and 75;
- (2) Section 5.05(b);
- (3) Section 5.61;
- (4) Section 15.02;
- (5) Section 15.03;
- (6) Section 15.06;
- (7) Section 25.03(a);
- (8) Section 35.02;
- (9) Section 35.03;
- (10) Section 35.04;
- (11) Section 35.08;
- (12) Section 36.02;
- (13) Section 36.03;
- (14) Section 36.09;
- (15) Section 38.02;
- (16) Section 38.03;
- (17) Section 62.13;
- (18) Sections 73.02, 73.03, 73.04, 73.05, 73.06, 73.07, 73.08, 73.09, 73.10, and 73.11;
- (19) Section 74.10;
- (20) Sections 108.52(d), (f), and (h); and
- (21) Section 204.06.

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No equivalent provision.

SECTION 411. The legislature finds that:

- (1) the state is authorized under the Twenty-first Amendment to the United States Constitution to promote the public's interest in the fair, efficient, and competitive marketing of beer, ale, and malt liquor in this state;
- (2) the United States Supreme Court in *Granholm v. Heald*, 544 U.S. 460 (2005), has recognized that the three-tier system of regulating the alcoholic beverage industry is unquestionably legitimate;
- (3) in *Granholm*, the United States Supreme Court further recognized that while the states are entitled to regulate the production and sales of liquor within their borders, the right is nonetheless subject to the provisions of the Constitution of the United States, including the Interstate Commerce Clause, and laws regulating the alcoholic beverage industry may not discriminate against out-of-state participants or give undue deference to local participants and may not ignore other provisions of the Constitution, including the Supremacy Clause, Commerce Clause, and the Privileges and Immunities Clause with its nondiscriminatory principles;
- (4) the state is authorized to promote, market, and educate consumers about the emerging small brewing industry;

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SECTION 412. Sections 11.37 and 61.37, Alcoholic Beverage Code, as amended by this Act, apply only to an application for a permit or license received on or after the effective date of this Act. An application for a permit or license received before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION __. The legislature finds that:

- (1) the state is authorized under the Twenty-first Amendment to the United States Constitution to promote the public's interest in the fair, efficient, and competitive marketing of beer, ale, and malt liquor in this state;
- (2) the United States Supreme Court in *Granholm v. Heald*, 544 U.S. 460 (2005), has recognized that the three-tier system of regulating the alcoholic beverage industry is unquestionably legitimate;
- (3) in *Granholm*, the United States Supreme Court further recognized that while the states are entitled to regulate the production and sales of liquor within their borders, the right is nonetheless subject to the provisions of the Constitution of the United States, including the Interstate Commerce Clause, and laws regulating the alcoholic beverage industry may not discriminate against out-of-state participants or give undue deference to local participants and may not ignore other provisions of the Constitution, including the Supremacy Clause, Commerce Clause, and the Privileges and Immunities Clause with its nondiscriminatory principles;
- (4) the state is authorized to promote, market, and educate consumers about the emerging small brewing industry;

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(5) it is the state's interest that nothing in this Act be construed to conflict with Sections 16 and 17, Article I, Texas Constitution, with regard to the impairment of contract, retroactive application of law, or taking of property in connection with the application of Sections 12.052 and 62.122, Alcoholic Beverage Code;

(6) it is in the state's interest to encourage entrepreneurial and small business development opportunities in the state that will lead to new capital investment in the state, create new jobs in the state, and expand the state and local tax base; and

(7) it is the public policy of the state to exercise the police power of the state to protect the welfare, health, peace, temperance, and safety of the people of Texas.

SECTION 412. (a) Section 101.6701, Alcoholic Beverage Code, as added by this Act, effective September 1, 2019, applies only to the sale of malt beverages on or after September 1, 2019. The sale of malt beverages before September 1, 2019, is governed by the law as it existed immediately before that date, and that law is continued in effect for that purpose.

(b) Section 101.6701, Alcoholic Beverage Code, as added by this Act, effective September 1, 2021, applies only to the sale of malt beverages on or after September 1, 2021. The sale of malt beverages before September 1, 2021, is governed by the law as it existed immediately before that date, and that law is continued in effect for that purpose.

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(5) it is in the state's interest to encourage entrepreneurial and small business development opportunities in the state that will lead to new capital investment in the state, create new jobs in the state, and expand the state and local tax base; and

(6) it is the public policy of the state to exercise the police power of the state to protect the welfare, health, peace, temperance, and safety of the people of Texas. [FA3(4)]

SECTION __. (a) Section 101.6701, Alcoholic Beverage Code, as added by this Act, effective September 1, 2019, applies only to the sale of malt beverages on or after September 1, 2019. The sale of malt beverages before September 1, 2019, is governed by the law as it existed immediately before that date, and that law is continued in effect for that purpose.

(b) Section 101.6701, Alcoholic Beverage Code, as added by this Act, effective September 1, 2021, applies only to the sale of malt beverages on or after September 1, 2021. The sale of malt beverages before September 1, 2021, is governed by the law as it existed immediately before that date, and that law is continued in effect for that purpose. [FA3(4)]

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SECTION 413. Except as otherwise provided by this Act, this Act takes effect September 1, 2021.

SENATE VERSION (IE)

SECTION 413. Same as House version.

CONFERENCE